UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.15/1996/16/Add.1
22 March 1996

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
Fifth session
Vienna, 21-31 May 1996
Item 7 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Addendum

USE AND APPLICATION OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

Summary

This report has been prepared in response to Economic and Social Council resolution 1993/34. It contains information received from Governments and other sources on the use and application of the Standard Minimum Rules for the Treatment of Prisoners, in accordance with Council resolutions 663 (XXIV) and 1984/47. Drawing on the experience gained from previous surveys, the present one takes into account the specific recommendations made by the Commission on Crime Prevention and Criminal Justice. The results of the survey should provide a standard of comparison by which to assess the progress and needs of each country and thus direct the course of future action by the Commission.

*E/CN.15/1996/1.

V.96-81737T

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INTRODUCTION

1. The Economic and Social Council, in its resolution 1993/34, section III, requested the Secretary-General to commence a process of information-gathering to be undertaken by means of surveys, initially paying attention to, *inter alia*, the Standard Minimum Rules for the Treatment of Prisoners.[1] In pursuance of the above request, the Crime Prevention and Criminal Justice Division elaborated a draft questionnaire on the use and application of the Standard Minimum Rules for the Treatment of Prisoners, which was submitted to the Commission on Crime Prevention and Criminal Justice at its third session for consideration. The questionnaire reflects the views of the Commission as expressed at its past three sessions, particularly that

an in-depth understanding of the use and application of the Standard Minimum Rules has to be based on precise, comparable and quantifiable information on how the Rules are applied in practice, including knowledge on how prison regimes deal with a variety of concrete aspects of prison life and prison management. Accordingly, the Economic and Social Council, in its resolution 1994/18, endorsed the questionnaire, containing more detailed, carefully designed and differentiated questions.

2. This report provides a summary of the responses received from 72 countries.* Replies were also received from the Holy See and from two non-governmental organizations, i.e. Penal Reform International, which provided information on the use and application of the Standard Minimum Rules in Uganda, and the Andean Commission of Jurists, which reported on the application of the Rules in Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela.

3. Previously, the Secretary-General submitted quinquennial reports on the implementation of the Standard Minimum Rules for the Treatment of Prisoners to the United Nations congresses on the prevention of crime and the treatment of offenders.** The last of these reports, which was submitted to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/11), contained updated information on the use and application of the Rules for the period 1985-1989, based on 49 replies received from Governments. The structure of the earlier reports was designed to provide information on general trends with regard to the treatment of prisoners, including overviews of general principles of imprisonment and prison services in Member States.

4. In principle, comparison of the information analysed in the present report with the results obtained from the previous ones should reveal broad global trends. However, the different design and content of the new questionnaire, as well as the fact that only 43 per cent of the countries contacted responded to both surveys limit the possibility of comparisons.

I. RESULTS OF THE SURVEY

A. Number of persons held in custody

5. Almost all countries provided information on the number of persons held in penal institutions, whether pre-trial detainees, sentenced prisoners or persons held for other reasons. A summary of the information received is contained in table 1. Figures for the years 1986 and 1990 are contained in the interim report prepared by the Secretariat on the results of the Fourth United Nations Survey on Crime Trends and

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*Armenia, Australia, Barbados, Belarus, Belgium, Cameroon, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Haiti, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Latvia, Lebanon, Liechtenstein, Luxembourg, Malawi, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Mongolia, Morocco, Myanmar, Netherlands, Pakistan, Papua New Guinea, Peru, Philippines, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, San Marino, Saudi Arabia, Singapore, Slovakia, South Africa, Sri Lanka, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Tonga, Turkey, Ukraine, United States of America, United Kingdom of Great Britain and Northern Ireland, Vanuatu and Venezuela.

**See the working paper prepared by the Secretariat on the Standard Minimum Rules for the Treatment of Prisoners in the light of recent developments in the correctional field (A/CONF.43/3); the working paper prepared by the Secretariat on the treatment of offenders, in custody or in the community, with special reference to the Standard Minimum Rules (A/CONF.56/6); the working paper prepared by the Secretariat on the implementation of the Standard Minimum Rules (A/CONF.87/11 and Add.1); and the report of the Secretary-General on the implementation of the Standard Minimum Rules (A/CONF.121/15 and Add.1).

Table 1. Number of persons held in custody at 31 December 1993 (or nearest possible date)

Country	*Pre-trial detainees*	*Sentenced prisoners*	*Others*	*Total*	*No. of prisoners per 100,000 inhabitants*
Armenia	1 912	3 442	..	5 364	143.73
Australia	2 397	15 414	10	17 821	100.91
Barbados	110	528	..	628	237.88
Belarus	10 507	31 593	..	42 100	413.23
Belgium	2 589	3 711	1 120	7 420	74.13
Cameroon	8 963	8 942	325	18 230	145.58
Chile	10 029	8 176	1 773	19 978	144.63
Colombia	16 331	12 070	150	28 551	79.42
Costa rica	538	2 922	145	3 605	112.69
Côte d'Ivoire	3 162	9 028	25	12 215	91.73
Croatia	658	1 648	..	2 306	51.12
Cyprus	159	5	..	164	20.87
Czech Republic	7 810	8 757	..	16 567	160.41
Denmark	860	2 265	70	3 195	61.57
Finland	243	3 079	..	3 322	65.56
France	21 949	31 114	..	53 063	92.48
Germany	21 785	34 679	3 502	59 966	77.43
Greece	2 091	4 777	16	6 884	66.80
Iran (Islamic Republic of)	25 248	76 553	..	101 801	158.65
Ireland	118	1 894	..	2 012	56.47
Israel	465	5 815	..	6 280	119.48
Italy	25 497	24 851	1 348	51 696	90.60
Jamaica	1 320	2 206	567	4 093	169.76
Japan	..	39 220	118	..	..
Jordan	1 568	2 181	..	3 749	75.95
Republic of Korea	23 990	31 169	..	55 159	125.20
Latvia	3 161	6 296	..	9 457	365.70
Lebanon	2 443	1 337	..	3 780	134.71
Liechtenstein	4	..	5	9	30.00
Luxembourg	162	254	2	418	110.00
Malawi	5	2 383	2 297	4 685	51.29
Malaysia	4 981	13 634	1 235	19 850	103.18
Malta	74	117	2	193	.53.46
Marshall Islands	10	34	112	156	300.00
Mauritius	255	671	..	926	84.88
Mongolia	800	5 285	..	6 085	262.51
Morocco	12 365	25 076	2 626	40 067	153.70
Myanmar	10 947	42 248	..	53 195	119.28
Netherlands	2 944	2 980	2 010	7 934	51.86
Pakistan	48 500	23 400	1 050	72 950	59.40
Philippines	17 932	17 932	..	35 864	54.63
Portugal	3 850	7 402	..	11 252	114.07
Qatar	187	340	..	527	94.28
Romania	19 425	21 816	2 749	43 990	193.32
Russian Federation	239 802	674 000	..	913 802	618.44
San Marino	3	2	1 211	5	20.83
Saudi Arabia	..	7 939	..	..	..
Singapore	295	5 767	298	7 273	253.06
Slovakia	1 903	5 372	..	7 275	136.80
South Africa	21 540	92 209	..	114 047	287.57
Sri Lanka	5 472	5 823	371	11 666	66.21
Sweden	1 043	4 418	..	5 461	62.68
Switzerland	1 851	4 040	2 209	5 891	84.91
Tajikistan	955	3 248	..	4 203	72.88
Thailand	18 046	73 397	..	93 652	159.86
The former Yugoslav Republic of Macedonia	225	953	..	1 178	55.59
Tonga	5	80	..	85	86.73
Turkey	18 766	15 589	..	34 355	57.04
Uganda[a]	15 127	[b]3 952	..	19 079	95.68
Ukraine	38 693	121 899	.	160 592	307.77
United Kingdom	8 400	36 826	531	45 757	78.63
United States[c]	4 587	70 765	10 218	85 570	..
Vanuatu	102	109	5	216	246.06
Venezuela	14 663	7 857	680	23 200	112.01

[a]The figures for Uganda were supplied by a non-governmental organization.
[b]Central government prisons only.
[c]Federal government prisons only.

Operations of Criminal Justice Systems (A/CONF.169/15, table 9).* In many countries, the prison population has continued to grow, notwithstanding increased use and reliance on alternative measures, also as a consequence of high crime rates.

B. Registration, separation of categories and classification

6. Almost all responding countries reported, in accordance with Rule 7, that a bound registration book was kept in every place where persons were imprisoned, containing information on the identity of all prisoners, the reason for their commitment and the authority therefor, and the date and hour of their admission and release. They also reported that no person was received into an institution without a valid commitment order, of which details had previously been entered in the register. However, Barbados and Ireland reported that the dates of admission and release were recorded but not the time. Belarus reported that a card index was used instead of a registration book. Australia, the Netherlands and South Africa reported that registration was now computerized. The United States reported that the Federal Bureau of Prisons Office maintained a central file on each inmate.

7. Almost all countries reported that male and female prisoners were either detained in separate institutions or, where they were in an institution which received both men and women, the whole of the premises allocated for women was entirely separate (Rule 8 (a)). Cameroon and Denmark reported that male and female prisoners were usually but not always held separately, in Cameroon for resource reasons and in Denmark because of the belief that there were advantages in this practice. Cameroon anticipated reforms in the foreseeable future. Germany reported that the principle of separate accommodation might be relaxed to enable prisoners to take part in treatment measures. Israel, too, reported that segregation was usual but that the sexes were sometimes detained in the same premises for reasons of medical care, psychological counselling and drug rehabilitation. Sweden reported that, because of resource difficulties and the belief that there were advantages in a different practice, segregation was usually but not always applied. The United States reported that a special housing unit might house male and female disciplinary cases on the same prison floor; however, they were separated. Reforms in this area were expected in the foreseeable future. Haiti reported that because of resource difficulties the segregation of male and female prisoners was exceptional.

8. Young prisoners were always kept entirely separate from adult prisoners in two thirds of responding countries. In a quarter, segregation was only usual; in Cameroon, Sweden and Venezuela, it was exceptional; and in Vanuatu, segregation was never applied (Rule 8 (d)). Most of the countries in which segregation was not always applied explained that it was because of shortage of resources, but others said it was due to their belief that there were sometimes advantages in not segregating young prisoners entirely from adult prisoners. For example, Denmark said that there was a very small number of young prisoners in institutions primarily for adults (from 5 to 10 in each such institution) and this was the reason for not enforcing total segregation. In Danish open prisons young prisoners could be with adults if it was considered to be in their interests. In Sweden, too, a combination of resource considerations and belief in the advantages of non-segregation were the reasons given for the fact that segregation was exceptional. In the United Kingdom (England and Wales) there were some limited circumstances where the mixing of young and adult male prisoners was allowed. Mixing of female young prisoners and adults was done on a regular basis as this practice had shown that both groups of prisoners profited by this experience. In the United States, juvenile offenders could be placed in an adult facility after turning 21, if there were no objections from the Court and where the transfer would not interfere with programming. Cameroon, Ireland and Sweden reported that reforms were expected in the foreseeable future.

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*See also A/CONF.56/6, annex II.

9. The age at which young prisoners were considered to become adult prisoners was 18 in more than half the responding countries and 21 in nearly a quarter. Other countries reported that the age limit was 16, 17, 19 or 20, and that there were variations in different parts of their territory.

10. Untried prisoners were kept entirely separate from convicted prisoners in more than half of the responding countries (Rule 8 (b)). This practice was usually followed in other countries except in Colombia, Denmark, France and the United Kingdom (England and Wales) where it was followed only exceptionally and Haiti, Marshall Islands, Vanuatu and Venezuela where it was never followed. The United States reported that national law required separation of pre-trial offenders to the extent practicable, depending upon design, structure and operation of the individual institution. Most countries in which untried prisoners were not kept entirely separate from others said that this was due to difficulties concerning resources. Barbados, Cameroon, Ireland, Luxembourg, United Kingdom (England and Wales) and Venezuela were expecting reforms in the foreseeable future. Some countries which mentioned resources as a factor in not keeping untried prisoners entirely separate made additional comments: Australia noted that individual needs were sometimes better served by non-segregation; Denmark reported that in order to make maximal use of total prison capacity short-term prisoners were held with untried prisoners and segregation was exceptional; the Netherlands, where segregation of untried prisoners was usual, nonetheless reported it as an advantage to hold very short-term prisoners with untried ones; the United Kingdom (England and Wales) reported that segregation was exceptional but that unconvicted prisoners had the right to refuse the sharing of accommodation with those who were convicted.

11. In more than half of the responding countries, women prisoners were attended and supervised only by women officers (Rule 53 (3)); in a further quarter this was the usual practice while in 10 countries such a practice was followed exceptionally or never. Seven of these 10 (Australia, Denmark, Germany, Ireland, Netherlands, Sweden and United Kingdom (England and Wales)) and also the Czech Republic, Finland, Slovakia and Switzerland believed that there were advantages for women prisoners in not being attended and supervised only by women officers. Germany reported that for a long time women had been able to be attended by male psychologists, doctors and social workers and it was now possible for this to occur in respect of warden duty and the direct care and control of prisoners. This was done in order to have the highest possible degree of normality in prison life (compared to life outside). Ireland mentioned the relevance of equal gender employment legislation to this issue. The Netherlands, Sweden and the United Kingdom (England and Wales) and the United States pointed out that body searches could only be undertaken by women staff. Some countries (e.g. Côte d'Ivoire, Liechtenstein and Tajikistan) pointed out that application of this Rule was hampered by a shortage of women staff. The last two countries and Cameroon anticipated reforms in the foreseeable future.

12. More than three quarters of responding countries reported that all prisoners had a right to inform at once their families of their imprisonment on their transfer to another institution (Rule 44 (3)) and that this Rule was always applied. Other countries reported that this Rule was usually applied but not always. In the United States, an inmate initially committed was permitted to telephone his or her family. Inmates being transferred, however, might be advised of a destination, but not the date or time of transfer. In Cameroon and Venezuela it was only exceptionally applied; this was for resource reasons and reforms were expected. In the Russian Federation and Singapore the responsibility for notifying families of these events was entrusted to the prison administration.

C. Accommodation, personal hygiene, bedding and food

13. One sixth of responding countries reported that prisoners always occupied sleeping accommodation in individual cells or rooms during the night (Rule 9 (1)). Almost a quarter said that this practice was usually followed, most but not all indicating that resource difficulties prevented full application of this Rule. More than half indicated that single-occupancy of a cell or room occurred exceptionally or never. Again resource

difficulties were the explanation given in most cases. However, Australia, Belgium, Croatia, Malaysia and Turkey reported that they saw advantages in housing prisoners other than in separate cells or cubicles.

14. Prisoners who shared accommodation were always carefully chosen as being suitable to associate with one another in more than half of responding countries with such accommodation (Rule 9 (2)), and this practice was usually followed almost everywhere else. However, Colombia, Haiti, Tajikistan and Venezuela reported that this Rule was applied exceptionally or never. In the United States, staff reviewed inmates' records to ensure that prisoners with incompatible backgrounds (for example, religion, gangs) were not assigned to the same cells/cubicles. Haiti noted that this was because of resource difficulties; Tajikistan reported their belief that there were advantages in following a different practice. Venezuela expected reforms in the foreseeable future.

15. Those countries which had dormitory accommodation were asked to indicate the maximum number of prisoners at present placed in such a room. In more than a third it was over 40, while in a quarter it was no more than 10 (see table 2).

Table 2. Maximum number of prisoners at present in one dormitory room

Number of prisoners	*Number of countries*
No more than 10	13
More than 10 but not more than 20	9
More than 20 but not more than 30	6
More than 30 but not more than 40	5
More than 40	19

16. In a quarter of countries which use dormitory accommodation (Rule 9 (2)), the maximum size of such rooms was in excess of 120 m^2 (see table 3).

Table 3. Maximum size of dormitory rooms

Size of room (m^2)	*Number of countries*
40 or less	11
41-60	10
61-80	6
81-100	5
101-120	7
More than 120	14

17. Rule 10 requires that all accommodation provided for the use of prisoners and in particular all sleeping accommodation meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. Nearly half of responding countries had up to 3 m^2 of available floor space, but five countries reported having more than 10 m^2 (see

table 4). Nearly half had a cubic volume of air per prisoner of no more than 10 m^3 but six countries reported having more than 30 m^3 (see table 5).

Table 4. Floor space per prisoner

Size of room (m^2)	*Number of countries*
Up to 3	23
3-5	15
6-10	13
11-15	4
More than 15	1

Table 5. Cubic air space per prisoner

Size of room (m^3)	*Number of countries*
Up to 10	25
11-30	23
31-50	3
More than 50	3

18. The five countries reporting that they provided more than 10 m^2 of floor space per prisoner were Belgium, Chile, Liechtenstein, Mexico and Republic of Korea. The six countries reporting that they provided more than 30 m^3 of air space per prisoner were Armenia, Belgium, Costa Rica, Jordan, Liechtenstein and Mauritius.

19. The temperature in the accommodation provided for prisoners was generally never less than 15° or 20° C. However, nine countries reported minima of 10° C (Australia, Chile, Israel, Peru and Portugal) or 5° C (Colombia, Malawi, South Africa and the former Yugoslav Republic of Macedonia). The maximum temperature was generally 25°, 30° or 35° C. However, Cameroon, Colombia, Haiti, Myanmar and South Africa reported that it might be as high as 40° C. The greatest ranges of temperature were thus in Colombia and South Africa (from 5° to 40° C); the smallest (a variation of only 5° C in each case) were reported by Armenia, Finland, Qatar and the United States.

20. Most countries reported that all places where prisoners were required to live or work had windows and that all were constructed to allow the entry of fresh air (Rule 11 (a)). However, more than a sixth said that almost all places had windows and more than a quarter said that not all the windows were constructed to allow the entry of fresh air. In the United States, about half of the windows were constructed to allow the entry of fresh air. New facilities had operable windows but officers exercised discretion in the light of security concerns and balancing the use of ventilation and air conditioning. In the Marshall Islands, none of their accommodation had windows. The Netherlands reported that only a quarter of prison windows were constructed to allow the entry of fresh air but that in all other cases the rooms had air-conditioning.

21. Similarly most countries reported that all windows in living accommodation were constructed to enable the prisoner to read or work by natural light (Rule 11 (a)). However, more than a quarter said that almost all were so constructed or that most were.

22. Artificial light was available in almost all countries (Rule 11 (b)). However, not all prisoners had such a facility in Cambodia, Côte d'Ivoire, Haiti, Iran (Islamic Republic of), Jamaica and Pakistan. These countries, and also Latvia, the former Yugoslav Republic of Macedonia, Mongolia and South Africa reported that the artificial light available was not always strong enough to make reading and writing possible.

23. Rule 13 requires that adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate. In almost all countries prisoners were entitled to take a bath or shower at least once a week, but not always with hot water. In the Islamic Republic of Iran the frequency was less than once a week; it depended on prisoners' behaviour in Malaysia and Pakistan (see table 6). If there were exceptional

circumstances, some countries reported that the frequency of entitlement might drop and the chances of the water being cold might increase; but most countries indicated that even if there were exceptional circumstances, the above practice would be maintained.

Table 6. Frequency of entitlement to bath or shower

Frequency	*With hot water*	*With water that was always or sometimes cold*
Less than once a week	1	-
At least once a week	17	1
At least twice a week	4	1
At least three times a week	4	10
At least daily/on request	18	11
Depends on prisoners' behaviour	-	2

24. Separate beds and bedding were always provided for prisoners in three quarters of responding countries (Rule 19). In Chile, Costa Rica, Pakistan and Romania beds and bedding were usually provided but resource problems prevented this happening in every case; in Israel and Morocco bedding was always provided but a number of prisoners had mattresses on the floor, as did all prisoners in Thailand where sleeping on a mattress on the floor was part of the traditional Thai culture. In some countries (e.g. Cameroon, Colombia, Côte d'Ivoire, Haiti, Jamaica and Venezuela) beds and bedding were provided exceptionally or never. In the Islamic Republic of Iran and Iraq inability to provide beds and bedding for all prisoners was attributed to resource problems. In Tonga prisoners were required to provide their own bedding. Reforms were anticipated in Cameroon, Haiti, Jamaica and Venezuela.

25. More than three quarters of countries reported that all parts of institutions regularly used by prisoners were properly maintained and kept scrupulously clean at all times (Rule 14). In other countries, this condition applied to almost all or most institutions except in Colombia where it applied to a half.

26. Rule 20 (1) requires that every prisoner be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well-prepared and served. This rule was reported to be applied in all countries, though some said that the food was not always well served. Three States said that it was not well prepared (Colombia, Côte d'Ivoire and Tajikistan). Denmark pointed out that in some institutions the prisoners did their own cooking under a system of self-management. Mongolia said that meals were not always provided at the usual hours. Drinking water is to be available to every prisoner whenever needed (Rule 20 (2)). Three countries (Cameroon, Colombia and Pakistan) said that drinking water was not always available, because of resource difficulties.

D. Prison work

27. Less than a third of responding countries reported that there was sufficient work to keep all prisoners actively employed (Rule 71 (3)). A similar proportion said there was enough for almost all or most prisoners. A quarter had sufficient work only for half their prisoners, while Barbados, Chile, Italy, Jamaica, Latvia, Marshall Islands, Qatar, Turkey and Venezuela had sufficient work for a quarter, or fewer. Haiti reported that no work was available.

28. On a normal working day sentenced prisoners were required to work for between five and eight hours in almost every country in which prisoners were required to work. This was of course reduced when work was unavailable. Greece, Ireland, Netherlands, Peru, Qatar and Thailand reported that prisoners were

normally required to work less than five hours per day; Tonga indicated that nine hours work was required. Over a half of responding countries required prisoners to work for five days a week and nearly a third of the countries required six days a week. In a few countries there was some variation from week to week. In some countries (e.g. Malta and Saudi Arabia) prisoners were not required to work at all.

29. Nearly half of the responding countries provided opportunities for vocational training in useful trades to all, or almost all, prisoners (Rule 71 (5)). In more than a third of responding countries the opportunities were available for only a quarter of the prisoners, or fewer. Haiti reported that no such training was available. Latvia and Venezuela reported that reforms were expected by 1996.

30. The wages prisoners received for their work (Rule 76) continued to vary considerably. In the Marshall Islands, Peru, Republic of Korea, Syrian Arab Republic and Ukraine they were reported to receive between 91 and 100 per cent of the average wage paid to the prison officers of the lowest category. By contrast, no pay was received by prisoners in Myanmar, Papua New Guinea, Tonga and Vanuatu. In over a third of countries, the pay that was received was no more than 10 per cent of the level of pay of the lowest category of prison officers and in a similar number of countries the pay exceeded 10 per cent but was no more than 50 per cent of that level. In the United States, inmates received less than 3 per cent of the average salary for the lowest category of officers. Other inmates who worked in a special project received between 3 and 7 per cent of the average wage paid to the lowest category of prison officers, after reduction of mandatory contributions to pay off court-ordered financial obligations (fines for example).

E. Education and recreation

31. All prisoners were provided with education in one third of responding countries (Rule 77). In a further quarter, at least half the prisoners received education and in the remainder it was provided for no more than a quarter. In Haiti and Vanuatu no prisoner was provided with education. In the United States, education programmes ranged from basic literacy to the post-secondary level. Mandatory literacy programme participation was a requirement for all prisoners in Federal institutions who did not possess a high school diploma or a general education degree certificate. Young prisoners were more likely to receive education than adults: in three fifths of responding countries education was available for all young prisoners and in another one fifth of countries it was available for at least a half of the prisoners. Cameroon, Jordan and Vanuatu reported that reforms were expected in the foreseeable future.

32. All illiterate prisoners were provided with education in half the responding countries (Rule 77 (1)). In another fifth of countries such education was provided for a majority of illiterate prisoners. No such education was provided in Tonga nor in the two countries where no education was available, that is, Haiti and Vanuatu (see preceding paragraph).

33. Rule 39 states that prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers and periodicals, by hearing wireless transmissions or by any similar means as authorized or controlled by the administration. Côte d'Ivoire and Pakistan reported that prisoners had no access to radio, television, newspapers or the magazines. In Papua New Guinea such access was occasional or exceptional. Elsewhere the degree of access varied from countries in which prisoners had access to radio, television, newspapers and the magazines of their choice and for the whole of their leisure time (nearly a quarter of responding countries) to those in which there was a much more restricted access.

34. Prisoners had access for the whole of their leisure time to radio programmes of their choice in nearly half the responding countries and access on a more limited basis in a similar number of countries. However, there was no such access in Malawi, Myanmar or the three countries already noted as allowing no access to any such published or broadcast material. In Singapore access was allowed only to selected prisoners. Television programmes of their choice were available to prisoners for the whole of their leisure time in about two fifths of responding countries, available on a more limited basis in half of the countries and completely

unavailable in Côte d'Ivoire, Haiti, Malawi, Myanmar, Pakistan and Vanuatu. Newspapers and magazines were almost always available, but over a quarter of responding countries placed some restrictions on the choice.

35. In more than three quarters of responding countries young prisoners and those of suitable age and physique were permitted to participate in sports or physical education at least once a week or on request (Rule 21 (2)). Over a quarter of countries reported that such activities were permitted at least three times a week. In some countries permission depended on the behaviour of the young prisoners concerned. In Haiti the prisons were reported to have insufficient space to organize such activities.

36. Rule 21 (1) says that every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if weather permits. Three quarters of responding countries reported full application of this Rule. In most of the others almost all prisoners were permitted to receive such exercise. However, in Armenia only some prisoners had this opportunity and in Haiti none at all did, again reportedly because of lack of space. In Japan prisoners were allowed 30 minutes exercise per day; prisoners were not allowed to exercise at weekends. In Cameroon and Pakistan most prisoners had at least an hour's daily exercise. In Côte d'Ivoire, Singapore and the United States permission was granted at the discretion of the administration. In several countries certain prisoners (e.g. those undergoing isolation punishment) were specified as exceptions to the normal mandatory practice of allowing daily exercise to every prisoner.

F. Medical services

37. Medical and dental services were available for all prisoners in almost every responding country (Rules 22 (1) and 22 (3)). In Colombia and Mongolia they were available for almost all prisoners and in Pakistan for most prisoners. In Chile and Haiti less than a quarter of prisoners had such services available.

38. Daily access to a qualified medical officer was always available in three quarters of responding countries and was usually available almost everywhere else (Rules 22 (1) and 25 (1)). But it was only exceptionally available, for resource reasons, in Barbados, Cameroon, Haiti, Jamaica and Venezuela. Reforms were anticipated in the foreseeable future in Haiti and Venezuela.

39. Ill prisoners who required specialist treatment were always transferred to specialized institutions or to civil hospitals (Rule 22 (2)) in the vast majority of responding countries.

40. Rule 23 (2) states that where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers. This Rule was applied in more than half the responding countries and in a number of others such facilities were available for most women prisoners with infant children. But about a quarter of countries reported that no such facilities existed and several pointed out that there was no need for a nursery, either because infants were not allowed inside the institution (as in China), because mothers were invariably allowed an interruption of their sentence for the period in which their infants were being nursed (as in Slovakia) or because the requirement that women prisoners shall work was regarded as being fulfilled, in the case of nursing mothers, by their full-time care of their children (as in Denmark). In Myanmar women undertook light work during which they were allowed to keep their babies with them. In Sri Lanka, too, mothers undertook the full-time care of their infants.

41. In accordance with Rule 91, it was possible in almost all countries for an untried prisoner to be visited and treated by his or her own doctor or dentist, if there was reasonable ground for the application and the prisoner was able to pay any expenses incurred. Eight countries reported that such an arrangement was not possible (Côte d'Ivoire, Czech Republic, Marshall Islands, Myanmar, Qatar, Romania, San Marino and Slovakia), and in France such an arrangement required ministerial authority. It was pointed out by the Marshall Islands that almost all the population of the country did not have the privilege of having his or her

own doctor. In the United States, all medical care was provided by the Federal Bureau of Prisons Office. Permission might be granted for examination by a private physician if the inmate was being treated for a major medical problem or if a warden and the medical director determined that the visit was reasonable and would not violate the best interests of any of the parties. Such visits were not routine and were infrequent.

G. Privileges and discipline or restraint

42. Three quarters of responding countries reported that privileges appropriate for the different classes of prisoners and the different methods of treatment were always established at every institution in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of the prisoners in their treatment. Most other countries reported that this was the usual practice. Mongolia and Slovakia noted this was only exceptionally done, and Denmark, Haiti, the Netherlands and Sweden reported that privileges were never used in this way. Denmark and the Netherlands believed that there were advantages in a different practice and Sweden said that, while there were no privileges established, consideration was given to prisoners' behaviour when deciding on, for example, short-time leave and leisure activities outside the prison.

43. The privileges that were used, *inter alia*, included: remission, parole, home leaves, extra or longer visits, more leisure activities, the right to decorate the cell or room, the right to work outside the prison gates, placement in work programmes, a more open regime or transfer to an open prison, travelling expenses for home visits, places on training courses, the use of the telephone, permission to engage in hobbies, permission to use musical instruments, credit points towards release on parole, longer exercise periods, more opportunity for sport, more use of television, extra food, a gratuity at the end of the sentence, use of video recorder, games, better work conditions, cancellation of disciplinary punishment, contact visits, activities outside the prison, participation in drama, permission to undertake employment in the community, the right to make more purchases from the prison shops, being given a position of trust or more responsibility, the right to have extra items in their cells and the award of good conduct badges.

44. Almost all responding countries reported that, in accordance with Rule 28 (1), prisoners were never allowed to exercise disciplinary functions over other prisoners. In Armenia and Pakistan this Rule was usually applied. It was only applied exceptionally in Cameroon and Myanmar where senior convicted prisoners were employed as watchmen in the dormitories to assist the night-duty prison officers. In several countries prisoners were given such authority in dormitories but it was reported that they did not have the right to discipline other prisoners.

45. In accordance with Rules 30 (1) and 30 (2), almost all responding countries reported that prisoners could only be punished in accordance with laws or regulations made known to them previously. In Cameroon, Colombia, Jordan, Morocco and Venezuela this was the usual practice but it was not always followed. In France it was not the practice in 1994, but reforms were expected in March 1995. In Haiti, too, it was not current practice.

46. In accordance with Rule 30 (2) almost all responding countries reported that prisoners were always given a proper opportunity to present their defence before the imposition of a disciplinary measure. In Cameroon, Colombia, Côte d'Ivoire and Pakistan they were usually given such an opportunity but in Morocco, where it was reported that reforms were expected in the foreseeable future, and in Venezuela, prisoners were never given the opportunity to present a defence before a disciplinary measure was imposed.

47. A prisoner serving a punishment imposed for a disciplinary offence that might be prejudicial to his or her physical or mental health was visited daily by a medical officer in about one seventh of the responding countries (Rule 32 (3)). In more than half the countries such visits took place at least three times a week or on request. In another one seventh it was possible that visits would not take place more than once a week and in Morocco the frequency was less than once a week. Several countries said that the Rule did not apply

in their circumstances because they did not impose punishments that were prejudicial to the physical or mental health of prisoners (South Africa)), because no prisoner whose fitness for punishment was in doubt would be so punished (United Kingdom (England and Wales)) or because no disciplinary punishments were imposed at all (Liechtenstein).

48. Rule 31, which states that corporal punishment, punishment by placing in a dark cell and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences, was reported to be always applied by more than four fifths of responding countries. Armenia, Colombia, Côte d'Ivoire, Jordan and Venezuela reported that the Rule was usually applied, with the last two of these countries indicating that they did not always apply it because they saw advantages in a different practice; in Venezuela it was reported to be retained in the interests of security. In Pakistan, Papua New Guinea and Tonga such punishments were only exceptionally forbidden and in the Marshall Islands, San Marino and Singapore they were never forbidden. In Singapore, the Prison Act provided for the imposition of caning on prisoners who had committed aggravated prison offences.

49. Almost all responding countries reported that instruments of restraint, such as handcuffs, chains, irons and strait-jackets, were never used as a punishment (Rule 33). Malawi, Marshall Islands, Pakistan, Papua New Guinea and Vanuatu reported that the Rule was only exceptionally applied and San Marino and Venezuela stated that the Rule was never applied. Several countries referred to their use of handcuffs as a restraint but not as a punishment.

50. According to Rule 29 (b), the types and duration of punishment which may be inflicted must be determined by the law or by the regulation of the competent administrative authority. In most countries the severest disciplinary punishment was close confinement or isolation. About a quarter of responding countries reported that the maximum period allowed for this punishment was 10 days or less. In more than a quarter it was between 11 and 20 days and in about a quarter it was between 21 and 30 days. In the Philippines it was between 31 and 40 days. In most of the remainder the maximum period for which such punishments might be imposed was in excess of 40 days (France, Japan, Luxembourg, Mongolia, Pakistan, Papua New Guinea, Republic of Korea, Russian Federation, Tajikistan, Thailand and the United States). In Barbados and San Marino no limit was set. Some countries set a maximum for strict isolation at no more than about 20 days but had a system of close confinement in less strict conditions which could be imposed for longer. Member States were not asked, when giving the above information, to indicate the severity of conditions.

H. Information to and complaints by prisoners

51. Five sixths of responding countries reported that every prisoner on admission was provided with information about the regulations governing the treatment of prisoners of his or her category, the disciplinary requirements of the institution and the authorized methods of seeking information and making complaints (Rule 35). Five other countries reported that the Rule was usually applied. Six countries reported that while prisoners were informed of the regulations governing their treatment, they were not always told about the disciplinary requirements and the means of seeking information and making complaints. In Pakistan, Rule 35 was only applied exceptionally and in Haiti never. In the latter case it was pointed out that the prison regimes were not yet clearly established.

52. Five sixths of responding countries reported that prisoners had the opportunity of making requests or complaints to the director of the institution or the officer authorized to represent him, every day or on request or at least three times a week (Rule 36 (1)). In Colombia, Côte d'Ivoire, Papua New Guinea and Vanuatu such an opportunity was available usually or with exceptions; in Chile, Croatia, Morocco, Myanmar, Pakistan, Tajikistan, the former Yugoslav Republic of Macedonia and Turkey it was available at least once a week, in the Islamic Republic of Iran its availability depended on the behaviour of the prisoner and in Mexico no such opportunity was reported to be available.

53. In accordance with Rule 36 (3)), almost every responding country reported that prisoners could make a request or complaint without censorship to the central prison administration, the judicial authority or other proper authorities through approved channels. However, in Myanmar, it was reported that such complaints were censored and in Malta, Marshall Islands, Mexico, Republic of Korea and Vanuatu, prisoners might complain in confidence to the central prison administration only. In other countries there was usually uncensored recourse not only to the central prison administration but also to a judicial authority and often also to bodies such as the Ombudsman, the Ministry of Justice, parliamentary representatives, the prosecutor, their lawyer, visiting magistrates, commissions entrusted with controlling the prisons and sometimes to the head of state, the President, and to international human rights bodies.

I. Inspection

54. Almost all countries reported that penal institutions and services were regularly inspected (Rule 55). Only Barbados, Colombia, Luxembourg and Venezuela indicated that there were no regular inspections. Inspections were undertaken by a variety of bodies, including the prison administration staff, the Ministry responsible for prisons, the prosecuting authorities, the Ombudsman (where one existed) and sometimes by national and international human rights bodies.

55. If the inspections were independent of the prison administration itself there arose the question of whether the head of the administration was required to follow the recommendations of the inspector and whether, even if he was not required by law to do so, in actual practice he followed them as far as possible. In more than half the responding countries the head of prison administration had to follow the inspector's recommendations and almost everywhere else he was not required to follow them but did so as far as possible. In Sri Lanka he had to take action on the recommendations, but only to the extent that seemed expedient to him. In the Marshall Islands, Myanmar and Papua New Guinea there was no direct influence of the inspector's recommendations on the practice followed by the prison administration. In Côte d'Ivoire the inspector's report went to the Ministry of Justice where decisions about implementing the recommendations were made. In Turkey inspections were undertaken at least every three months by the local prosecutor who was then himself responsible for the implementation of the measures for improvement that he had proposed.

J. Legal counselling

56. Rule 93 sets out the legal assistance which an untried prisoner should be allowed for the purposes of his or her defence. Five sixths of countries reported that prisoners might apply for free legal aid where it was available. Prisoners might receive visits from their legal advisers with a view to the preparation of their defence in all responding countries with the exception of the Philippines and San Marino. Prisoners might prepare and hand confidential instructions to their legal advisers in five sixths of responding countries.

57. Interviews between the prisoner and his or her legal adviser took place within the hearing of a police or prison official in Australia, Jordan, Liechtenstein, Marshall Islands, Netherlands, Pakistan, Slovakia and the former Yugoslav Republic of Macedonia. They took place within the sight but not the hearing of such an official in most other countries, but interviews were reported to be completely private in Denmark, Finland, France, Germany, Japan, Lebanon, Luxembourg, Mongolia, Sweden, Turkey and Ukraine.

K. Contact with the outside world

58. Rule 37 states that prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits. In respect of visits there was a wide variation of practice, for example, between those countries which permitted visits no more than once a month and those that allowed them more than six times a month or on request. Latvia and Tajikistan allowed less than one visit per month and Slovakia allowed visits every six weeks to prisoners classified in its third correctional group. The following countries allowed visits once a month: Armenia,

Barbados, Belarus, China, Czech Republic, Germany, Mauritius, Mongolia, Russian Federation, Sri Lanka, Ukraine and Vanuatu. By contrast the following countries allowed more than six visits a month: Cameroon, Chile, Costa Rica, Finland, Greece, Haiti, Jamaica, Lebanon, Malawi, Mexico, Qatar, Saudi Arabia, Tonga and Venezuela; Côte d'Ivoire and Sweden reported that visits were allowed on request (with exceptions). In the United States, prisoners might receive visits for four hours a month subject to restrictions for disciplinary reasons.

59. Several countries allowed more frequent visits to pre-trial detainees than to sentenced prisoners. For example, Belgium and France both allowed four visits a month to sentenced prisoners but six (Belgium) or more than six (France) to pre-trial detainees. Japan allowed visits once a month to sentenced prisoners but every weekday to pre-trial detainees. Myanmar allowed two visits a month to sentenced prisoners but four or five to detainees. Portugal allowed four visits a month to sentenced prisoners but daily visits to detainees. Such practice reflects the spirit of those Rules (especially Rules 84 (2) and 92) which emphasize that unconvicted prisoners are presumed to be innocent and shall be treated as such and that they shall be given all reasonable facilities for communicating with family and friends and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

60. Prisoners could receive and send mail either on request or more than six times a month in more than three quarters of responding countries. In the United States, mail privileges were unrestricted. However, an inmate might be placed on restricted general correspondence if the inmate was found to be abusing mail privileges. In Malaysia and Qatar the frequency of correspondence allowed depended on the behaviour of the prisoners. No more than two letters a month were normally allowed in Barbados, Mauritius, Papua New Guinea, Sri Lanka and also in Singapore, where the director of the institution nevertheless had authority to grant extra letters especially to those who were of exemplary conduct.

L. Religion

61. If the institution contained a sufficient number of prisoners of the same religion, a qualified representative of that religion was always appointed or approved in more than three quarters of responding countries and this practice was usually followed elsewhere (Rule 41 (1)). In the United States, each institution had at least one chaplain; however, volunteer or contract staff might be utilized to perform specific religious services not handled by the chaplain. A qualified representative of another religion was usually appointed or approved, subject to the availability of local resources. In Saudi Arabia such a representative was only exceptionally appointed or approved and in Haiti, Latvia and Mongolia this practice was never followed. In Haiti this was because of resource problems; in Latvia reforms were expected by 1996. South Africa pointed out that 1,815 representatives and 30 chaplains had been appointed for 65 different churches and denominations.

62. Access to a qualified representative of any religion was never refused to any prisoner in five sixths of responding countries (Rule 41 (3)) and rarely refused elsewhere; refusals were often because a particular religion was not recognized. Colombia reported that such access was usually refused, in China due to the belief that there were advantages in a different practice and in Colombia because religious leaders were seen as using their role for politics and proselytizing. In Haiti, for resource reasons, access was always refused, as it was in Saudi Arabia due to the belief that there were advantages in a different practice.

63. Prisoners were allowed to have books of religious observance in their possession (Rule 42) in almost every responding country. In Papua New Guinea there were exceptions to this practice; in Cameroon and Côte d'Ivoire prisoners were usually allowed to keep religious books in their possession while in Tonga such permission depended entirely on the administration.

M. Institutional personnel

64. Member States were asked, in respect of specialists, how many of various types of personnel were currently employed in their prison system (see annex). They were asked to distinguish full-time from part-time staff. In the annex to this report, an overview on specialists employed in the prison systems is provided. In each case the number of part-time staff is added in parentheses after the number of full-time staff. In some countries certain specialists (e.g. teachers) were employed not by the prison administration but by an outside body and this accounts for their absence from the figures in the annex.

N. Social relations and after-care

65. Rule 81 (1) states that so far as is possible, released prisoners shall be provided with appropriate documents and identification papers, have suitable homes and work to go to, be suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release. Less than half the responding countries reported that after-care services were available for all prisoners; in a further seventh they were available for a majority of prisoners. However more than a fifth of respondents said that such services were available only for some prisoners; no services were available in Haiti, Marshall Islands, Myanmar, Pakistan, Papua New Guinea, Qatar, Tonga or Venezuela. The Islamic Republic of Iran, Jordan, Latvia and Malta expected reforms in the foreseeable future.

II. ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

66. It is apparent that the non-governmental organizations that submitted replies to the Secretary-General reported on the use and application of the Standard Minimum Rules from a somewhat different perspective. Penal Reform International, which reported on the observance of the Rules in Uganda, noted some difficulties in the separation of prisoners, i.e. juveniles and the separation of untried detainees from convicted prisoners. Juveniles who committed capital offences or those who were caught in the act with adult offenders were usually considered as dangerous and were imprisoned together with adults. Owing to the poor communication system in Uganda, families were not always informed of the imprisonment of one of their relatives. It also reported difficulties in the provision of adequate accommodation. Because of the overcrowding of prisons, selection of prisoners who associate with one another was only exceptionally practiced. Also, more than 40 prisoners were placed in one dormitory room. This organization noted that since nothing was done to reduce or increase temperatures in the accommodation, they depended on the weather. Prisons in Uganda were constructed without windows. Because of prison overcrowding, prisoners were only exceptionally provided with blankets or mattresses. With regard to the provision of food, this organization reported that prisoners received one meal in a day in very insufficient quantities and that the diet was never balanced. Water in prisons was consumed raw. According to this organization, the prison administration faced difficulties in the provision of work. Skills and trade training facilities in Ugandan prisons were very inadequate compared to the large number of prisoners. Where they were available, usually spares and materials were lacking to keep them running. In addition, prisoners in Uganda did not receive any wages for the work they did. Prisoners in Uganda had no access to printed or broadcast information. Due to the poor funding of the prison department in Uganda, prisoners did not receive any education, despite the fact that the Prison Act of Uganda provided for it. This organization reported that the laws of Uganda provided for corporal punishment or the placing of prisoners in a dark cell. With regard to information and complaints by prisoners, Penal Reform International reported that any information leaving or entering a prison was subject to censorship by prison administrators.

67. The Andean Commission of Jurists reported on the application of the Rules in Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela. With regard to legal provisions, most of these countries ensured that the Rules were applied, *inter alia*, in the areas of registration of prisoners, separation of prisoners (i.e. untried prisoners

from those convicted, women from men, juveniles from adults) and in meeting minimal accommodation standards. Also, the law provided for education, training and recreation facilities, as well as for work in at least some of these countries. In Chile and Peru, prisoners had access to printed and broadcast information. In addition, the law provided for health-care services for prisoners. However, this organization reported that, in Venezuela, valid orders for detention were not required for persons who were detained in accordance with the *ley de vagos y maleantes*. In Bolivia, men and women might be detained in the same building, but the law provided for separation within the building. In Chile, the transfer of sick prisoners to civil or private hospitals, if required, was applied only in exceptional and very serious cases. The maximum duration of isolation was reported to be 30 days in Peru which could be extended to 45 days in cases of recidivism. In Chile, prisoners could make petitions or complaints only if this was regarded as necessary by the prison administration. In Chile and Venezuela, visits were allowed twice a week and in maximum security prisons in Ecuador, visits were allowed only under special regulations and with special precautions. However, in the view of this organization, a gap existed between legal provisions and the implementation of these provisions in practice in many countries.

III. TECHNICAL ASSISTANCE

68. In order to overcome these apparent difficulties in the application of the Rules, Member States indicated what forms of assistance they considered to be helpful to their Governments and what forms of assistance, if any, their Governments could provide to other countries.

69. The 45 countries which made a request indicated the forms of assistance that would be helpful to their Governments. Exchange of experience was requested most frequently and was most often accorded the highest priority. Assistance with training and with research were requested the next most often, while financial aid was the form of assistance given the second highest priority. Fourteen countries requested all six forms of assistance. The nature of requests for assistance are given in greater detail in table 7.

Table 7. Requests for assistance

Type of assistance requested	*Number of requesting countries*
Exchange of experience	40
Training	36
Research	30
Financial aid	28
Planning	24
Legal reform	19

70. Offers to provide assistance were made by 39 countries. Most frequently, States offered exchange of experience (29); assistance in training (18); assistance in legal reform (15) and research (14). Planning could be provided by 10 countries and financial aid by another 2 countries.

IV. CONCLUSIONS

71. In comparing the two surveys which have been mentioned above, some positive trends are observed. For example, prisoners were allowed to take a bath or shower more often than in the past. Countries reported that medical and dental services were available for more prisoners now than in the past. Fewer prisoners

were allowed to exercise disciplinary functions over other prisoners. Corporal punishment appeared to be used less than during the previous reporting period. Comparisons with the results of the previous survey suggest that prisoners receive better information than in the past, *inter alia*, on regulations governing their treatment and possibilities of making requests or complaints.

72. Apparent negative trends included the following: separation of different categories of prisoners was reported to be a problem for prison management in more countries than in the past. More unconvicted prisoners shared cells with convicted prisoners and more young prisoners were kept in institutions for adult prisoners. More female prisoners had to share prisons with males. It was also more likely that women prisoners were supervised by male officers during the reporting period than five years ago. In 1995, more dormitories were used than in 1990. In some countries, prison management did not select prisoners for the occupation of dormitories as carefully as in the past. As regards prison buildings, not all windows were constructed to allow the entry of fresh air in modern prisons. In more countries than before, possibly because of prison overcrowding, beds and bedding were no longer provided for all prisoners. Fewer countries reported that their prisons were kept clean. With regard to prison work, prisoners in fewer countries had the opportunity to work. In fewer countries a prisoner was likely to receive education or recreation than in the past. Fewer countries reported that prisoners were allowed to communicate with the outside world, particularly with their family and reputable friends, than for the period covered by the 1990 report. Social relations and after-care services were available in fewer countries than in the past.

Notes

[1]See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A; see also *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1), sect. C.

Annex

SPECIALISTS EMPLOYED IN THE PRISON SYSTEMS

Country/area	*Number of prisoners*	*Doctors*	*Nurses*	*Psychiatrists*	*Psychologists*	*Social workers*	*Teachers*	*Trade instructors*	*Others*
Armenia	5 364	37(+8)	-	6	1	-	19	-	-
Australia[a]	17 821	15(+58)	158(+47)	6(+12)	89(+11)	58(+4)	153(+505)	568	194(+27)
Belarus	42 100	368(+51)	315(+16)	51(+14)	52	-	70(+2)	29(+258)	5 700(+55)
Belgium	7 420	2(+54)	75	-	29(+3)	206(+2)	0(+1)	-	7[b]
Cameroon	18 230	3(+65)	128	0(+1)	0(+1)	60	-	-	20
Chile	19 978	4(+40)	10	2	26	116	5	-	150
Colombia	28 551	0(+211)	85	0(+6)	32	27	104	-	2(+70)
Costa Rica	3 605	20	3	3	30	65	19	-	165
Côte d'Ivoire	12 215	1	16	-	-	11	-	-	-
Croatia	2 306	26(+10)	51(+10)	6(+2)	12	9	14(+3)	60	-
Cyprus	164	1(+2)	6	0(+1)	1	1	1(+10)	10	-
Czech Republic	16 567	107(+74)	200(+3)	2(+3)	41(+8)	61	18	39(+7)	51[c]
Denmark[d]	3 195	7(+26)	36(+39)	5	4(+1)	55(+8)	66(+6)	298	2(+3)
Finland	3 322	6(+15)	107	5(+2)	23(+2)	40	17	250	0(+7)[e]
Germany[f]	59 966	285.5	N.A.	N.A.	434.5	1 127	413.4	1 970	-
Greece	6 884	4(+48)	19	2(+8)	-	48	-	-	-
Haiti	N.A.	3	4	-	-	8	-	-	-
Ireland	2 012	0(+20)	-	0(+9)	5	34	109(+69)	60	2[g]
Israel	6 280	28(+10)	14	-	2(+3)	85(+17)	85(+2)	36(+7)	115(+4)[h]
Italy	51 696	15 (+1 748)	314 (+1 340)	0(+260)	1(+407)	1 300	-	-	6[i]
Jamaica	4 093	1(+1)	2	0(+1)	-	10	6	30	50[j]
Japan	39 220	196 (+2 683)	244	26(+11)	89	-	110(+93)	571(+91)	89(+5)[k]
Jordan	3 749	5(+7)	6	0(+4)	-	3(+1)	6	-	4[l]
Latvia	9 457	41(+21)	71(+20)	10(+1)	2	136(+3)	14	5	-
Lebanon	3 780	3(+15)	5(+7)	-	-	5(+10)	5(+10)	5(+10)	10(+15)[m]
Liechtenstein	9	0(+1)	-	0(+1)	0(+1)	0(+2)	0(+2)	0(+1)	-
Luxembourg	418	1(+1)	6	0(+1)	0(+1)	0(+7)	1(+3)	11	2[n]
Malawi	4 685	1	1	4	4	-	-	6	-
Malta	193	1	2(+6)	0(+1)	-	-	0(+12)	-	-
Malaysia	19 850	1	-	-	-	-	9	52	-
Marshall Islands	156	-	-	-	-	-	-	-	-
Mauritius	926	2	28	-	-	6	8	108	-
Mongolia	6 085	45(+12)	77	1	-	-	8	3	-
Morocco	40 067	36(+50)	153	-	-	29	89	-	38
Myanmar	53 195	20(+22)	26	-	-	-	-	63	-
Papua New Guinea[o]	N.A.	-	1	-	-	0(+19)	0(+19)	10(+20)	1
Philippines	35 864	32	60	1	8	5	35	18	-
Portugal	11 252	38(+58)	69	10(+7)	-	[p]	43(+184)	-	-
Qatar[q]	527	1	5	-	1	3	-	-	-
Republic of Korea	55 159	59	59	-	-	-	290(+152)	90(+141)	-
Romania	43 990	208(+4)	341	5	11	-	304	196	35[r]

Country/area	*Number of prisoners*	*Doctors*	*Nurses*	*Psychiatrists*	*Psychologists*	*Social workers*	*Teachers*	*Trade instructors*	*Others*
Saudi Arabia	7 929 (sentenced prisoners)	1	1	-	1	2	10	20	1[a]
Singapore	7 273	6	75	2	1	-	13(+6)	-	-
Slovakia	7 275	56(+75)	160(+14)	6(+2)	39	15	-	-	7
South Africa	114 047	..	309	..	45	236	129	818	667
Sri Lanka	11 666	14(+6)	46	1	-	47	1(+25)	101	2(+4)[b]
Sweden	5 461	1(+73)	75(+55)	3(+17)	7(+8)	137(+6)	-	504(+30)	30(+1)[c]
Syrian Arab Republic	N.A.	4(+8)	10(+4)	1(+1)	1(+1)	7(+3)	14	20(+9)	-
Tajikistan	4 203	47	41	6	-	-	57	-	-
Thailand	93 652	48(+3)	238	-	179	37	279	1,594	3
The former Yugoslav Republic of Macedonia	1 178	3(+6)	4	1(+8)	17	10	14	20(+4)	-
Tonga	85	0(+1)	0(+1)	0(+1)	0(+1)	0(+1)	-	-	-
Turkey	34 355	99	-	54	54	49	130	-	119
Ukraine	160 592	808	2 212 (+314)	241	128	2 324	174(+20)	253	2 040
United Kingdom (England and Wales)	45 757	135(+103)	879	-	163	617(+45)	-	1 256	23[d]
United States	85 570	179(+6)	428(+14)	14	297(+31)	1 091	481	101	2 958(+6)
Venezuela	23 200	0(+109)	-	0(+8)	0(+19)	69	-	-	28(+70)[e]

[a] Medical services for one of the largest jurisdictions, provided by the health department, were excluded.
[b] Other specialists were 3 pharmacists and 4 industrial engineers.
[c] Other specialists were pedagogues.
[d] Additional specialists - social workers, health staff, teachers - were employed in local gaols. The 5 "others" were medical laboratory assistants.
[e] Other specialists were priests and health-care personnel.
[f] Includes part-time workers and is based on budgets for 1994. There may be some vacancies.
[g] Other specialists were the Director of Prison Medical Services and one pharmacist.
[h] Other specialists include 15(+2) rehabilitation experts, 87(+2) paramedical staff and 13 rabbinical staff.
[i] Other specialists were medical radiology engineers and nutrition experts.
[j] Other specialists were medical orderlies.
[k] Other specialists were 89 medical staff plus 5 interpreters and electricians.
[l] Other specialists were religious instructors.
[m] Other specialists were dentists.
[n] Other specialists were educators.
[o] For medical and psychiatric treatment, including psychologists and social workers who voluntarily visit prisoners and provide social activities, the government specialists were used.
[p] Social workers were employed not by the prison service but by the Institute for Social Rehabilitation.
[q] The prison works closely with Hamad Hospital in different medical fields and receives periodic visits.
[r] Other specialists were priests and some engineers.
[s] Other specialists was a barber.
[t] Other specialists were dental surgeons and counsellors.
[u] Other specialist were 30 physical therapists and one part-time recreation assistant.
[v] Other specialists were pharmacists.
[w] Other specialists include sporting/cultural coordinators, chaplains and dentists.

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GENERAL

E/CN.15/1996/16/Add.2
28 March 1996

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
Fifth session
Vienna, 21-31 May 1996
Item 7 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Addendum

USE AND APPLICATION OF THE CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS, TOGETHER WITH THE BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

Summary

The present report has been prepared in response to Economic and Social Council resolution 1993/34 of 27 July 1993. It contains information received from Governments on the use and application of the Code of Conduct for Law Enforcement Officials, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Drawing on the experience gained from previous surveys, the report takes into account the specific recommendations made by the Commission on Crime Prevention and Criminal Justice. The results of the survey should provide a standard of comparison by which to assess the progress and needs of each country, and thus direct the course of future action by the Commission.

*E/CN.15/1996/1.

V.96-81954T

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INTRODUCTION

1. The Economic and Social Council, in section III of its resolution 1993/34 of 27 July 1993, requested the Secretary-General to commence a process of information gathering to be undertaken by means of surveys, initially paying attention to, *inter alia*, the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex, of 17 December 1979), together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,[1] the results of which are to be considered by the Commission on Crime Prevention and Criminal Justice. In its resolution 1994/18 of 25 July 1994, the Council endorsed a draft questionnaire elaborated by the Secretariat in response to this request as reviewed by the Commission.

2. This report provides a summary of the responses received from 65 States.* Some States, in replying to the questionnaire, submitted copies of laws and other references, which could not be reflected totally in the present report.

3. Attention is called to two earlier reports of the Secretary-General on progress made with respect to the implementation of the Code of Conduct for Law Enforcement Officials. The first report was submitted to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.121/12 and Add.1), held at Milan from 26 August to 6 September 1985; the second one was considered by the Committee on Crime Prevention and Control, at its tenth session (E/AC.57/1988/8), in 1988. The latter report contained updated information on the use and application of the Code of Conduct, on the basis of 51 replies received from Governments. The report reflected that in a number of countries, the Code of Conduct had had a direct influence on reforms in legislation and practice. Training programmes and seminars aimed at familiarizing practitioners with the Code of Conduct were considered to be an important means of improving its application.

I. DUTY OF LAW ENFORCEMENT OFFICIALS

4. According to article 1 of the Code of Conduct, law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

5. While the concept as outlined in article 1 is respected in all States which provided information on the use and application of the Code of Conduct, the status of law enforcement officials and the organizational structure of law enforcement agencies varied. In most countries, officials were civil servants, but in few they belonged to armed forces or military personnel. In one country, law enforcement agents were "peace officers", whose function was to implement the Code of Conduct and other relevant legislation.

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*Argentina, Australia, Austria, Barbados, Belarus, Belgium, Chile, China, Colombia, Costa Rica, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Haiti, Holy See, Hungary, Iran (Islamic Republic of), Ireland, Israel, Jamaica, Japan, Jordan, Lebanon, Liechtenstein, Luxembourg, Malawi, Maldives, Marshall Islands, Mauritius, Mexico, Mongolia, Morocco, Nepal, New Zealand, Niger, Oman, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, San Marino, Saudi Arabia, Singapore, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Vanuatu.

II. CONFIDENTIALITY

6. Article 4 of the Code of Conduct stipulates that matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

7. Almost all countries reported that when law enforcement officials were in possession of information relating to the private lives of individuals, or which was potentially harmful to the interests and especially the reputation of others, they always exercised great care in safeguarding and using the information. Five countries reported that this principle was applied usually, and one noted that it was applied exceptionally. Australia, Mongolia and Nepal reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

8. Almost all countries reported that a law enforcement official was held legally responsible if he or she disclosed information other than in the performance of duty or to serve the needs of justice. Five countries observed that this principle was applied to a certain extent, and one reported that it was applied in some specific situations. Malawi reported that secrecy about both informants and information held by law enforcement officials was highly valued, a fact which led to easy and positive enquiries. Secret information was dealt with in a manner which ensured that informants were not exposed to danger, and that violations of discipline by the police were not disclosed. Mongolia reported that there were some problems with the abuse of freedom of speech. The Philippines reported that the Code of Professional Conduct and Ethical Standards mandated all police personnel to be considerate of the feelings and sensitivities of other persons, and that unauthorized disclosure of any confidential information constituted an administrative and/or criminal offence. The Philippines also reported that a book on the handling of security information, including data on persons subjected to tactical interrogation, investigation or interviewing, was available to all those concerned within the police forces of the Philippines.

III. ACTION AGAINST TORTURE

9. Article 5 of the Code of Conduct stipulates that no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, international political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment. In this connection, it may be recalled that the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment has submitted annual reports on his findings to the Commission on Human Rights. In order to avoid any duplication of reporting, the following chapter focusses only on information that complements the annual reports of the Special Rapporteur.

10. Almost all countries stated that law enforcement officials were never allowed to inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment.

11. Two countries reported that in order to obtain information or confessions, law enforcement officials were, in special cases, permitted to use interviewing and interrogation techniques which might cause physical or mental pain or suffering to persons. Such techniques were permitted when law enforcement officials were ordered to do so by a superior law enforcement official or other government official. It was also reported by two countries that such techniques were permitted when there was a threat to national security, and when there was a public emergency. One country reported that such techniques were permitted when dealing with particular forms of crime. All other countries, when responding to this question, reported that such techniques were never permitted.

12. In almost all countries, it was mandatory that all acts of torture or maltreatment by law enforcement officials were always investigated in an impartial and thorough manner, even when there had been no formal complaint. Several countries reported that this principle was usually applied; and one country reported that it was applied exceptionally. One country reported that it was at the discretion of the supervisors of the law enforcement official. Australia reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

13. A number of countries reported that cases against law enforcement officials charged with crimes connected with the infliction, instigation or toleration of any act of torture or inhuman or degrading treatment were heard by regular domestic criminal courts. In three countries, special military or police courts were established to deal with such crimes. One country reported that cases against an officer charged with such crimes would be heard exclusively by internal disciplinary police courts. In about one third of responding countries, such cases would be heard, in addition to regular domestic criminal courts, by special courts or tribunals, both public and internal. Australia noted that disciplinary action could take place mostly in addition to court action. Austria reported that there were possibilities for civil or disciplinary actions to be taken in cases of crimes committed by law enforcement officials involving the infliction, instigation or toleration of any act of torture or inhuman or degrading treatment. Chile reported that such cases were also heard by the Investigation Police. Portugal reported that police officials who had military status were heard by military courts.

14. In general, law enforcement officials who had been found guilty by the court or tribunal of inflicting, instigating or tolerating any act of torture were subject to fine (36 countries); censure (27 countries); reduction of rank (34 countries); reduction of remuneration (25 countries); transfer from law enforcement agency (21 countries); suspension (24 countries); termination of employment (41 countries); and some other system of punishment (22 countries). France reported that the penalty for torture or barbaric acts was 15 years of imprisonment, and that the maximum would be 20 years when committed by a person vested with public authority in or during the performance of his functions. Switzerland reported that, depending on the severity of the incident, either disciplinary or criminal proceedings were instituted.

15. Of those countries which reported that law enforcement officials who were suspected of having committed an act of torture might temporarily be suspended from office, in 42 they were suspended with continued payment. In 32 countries, the suspected officials were suspended from office without continued payment. In 13 countries, they were transferred to another law enforcement agency. Thirty-three States reported that these officials could also be assigned to other responsibilities within the same law enforcement agency. Finland and the United Republic of Tanzania noted that such officials were paid half of their salary, while in Cyprus, officers might receive a "suspension allowance" which amounted to not less than half of their salary. Oman reported that they were paid part of their salary. Saudi Arabia reported that suspected officers continued to be paid until judgement is rendered.

16. Almost all countries reported that a law enforcement official who committed an act of torture was punished under national law. Two countries informed that this principle was applied in some specific situations. Colombia noted that such officials were punished under the Military Penal Code. Nepal reported that they were punished under an internal disciplinary system rather than, apparently, the normal judicial system. Saudi Arabia stated that they were punished under Islamic Sharia law. Officials of Vanuatu suspected of having committed an act of torture had to face disciplinary action in addition to criminal proceedings.

17. One country reported that law enforcement officials had the duty to report any case of suspected torture to a specialized agency without reporting to any superior. In all other countries law enforcement officials had the duty to report any case of suspected torture to the direct supervisor. In about a quarter of the countries, officers also had the possibility to report on such cases to the superior at a higher grade or to a specialized agency.

18. About two thirds of the countries reported that an investigating procedure or institution had been established to investigate any act of torture by a law enforcement official, independent of any agency to which such a law enforcement official might belong. Some countries noted that such procedures were established to a certain extent. Five other countries reported that such procedures were established for some specific situations. Australia noted that it had established the institution of a police ombudsman and other police complaints authorities. Colombia reported that there were monitoring bodies, such as the public prosecutor's office, the procurator's office, the legal defence service and the commissioner for the national police. Argentina reported that there was no special procedure except general rules governing investigation and judgement of offences. In Jamaica, law enforcement officials were obliged to report not only torture cases, but also assaults and other such cases to the complaint section of the internal affairs division or to a public complaints bureau where those matters were investigated. In the Philippines, the national police inspector general, the commission on human rights, the ombudsman, the courts and other government bodies were closely monitoring all police units for incidents potentially related to torture and other human rights violations. The chief officer of the police authority in the United Kingdom was responsible for investigating and directing disciplinary charges of misconduct against police officers by reviewing the report of every complaint, while the director of public prosecutions was responsible for the decision on criminal charges in the United Kingdom.

19. Almost all countries reported that a formal and prescribed procedure had been established which must be followed when a law enforcement official was subject to disciplinary proceedings. One country reported that such procedures had been established to a certain extent; another indicated that it had been established in some specific situations; and in two countries, such procedures had not been established.

20. Formal and prescribed procedures set forth the provisions on the process of investigation in 62 countries; the rights and duties of the investigator in 51 countries; the process of forwarding all information necessary in 46 countries; the executing procedures of investigator's orders in 44 countries; the procedure for supervising the investigation in 43 countries; the supervision of the investigator in 42 countries; and the rights of officials being investigated in 41 countries.

21. In 51 countries, law enforcement officials might not invoke a superior order as a justification of torture and other cruel, inhuman or degrading treatment or punishment. A state of war (in 49 countries), a threat of war (in 46 countries), a threat to national security (in 52 countries), internal political instability (in 52 countries) and other public emergency (in 49 countries) is not sufficient justification for torture and other cruel, inhuman or degrading treatment or punishment. Israel, however, reported that the Landau Commission for the Inquiry into the Investigation Techniques of the General Security Services (GSS) concluded that if a public emergency developed, or whenever an imminent threat to national security was at hand, GSS investigators would be able to use "moderate physical pressure" to gain important information from those who knowingly endangered public safety.

IV. MEDICAL SERVICES

22. Article 6 of the Code of Conduct stipulates that law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

23. Almost all countries reported that medical and dental services were available for all persons held in custody, and that this practice was mandatory. Five countries reported that such services were available for almost all persons. Four countries informed that it was mandatory with specified exceptions. In Costa Rica dental treatment was not provided for persons held in custody. Israel reported that the annual numbers of detainees in police detention centres was 90,000, half of whom were drug addicts and others with medical problems. All those persons received medical assistance. Australia, Jordan, Luxembourg, Mongolia and the

Philippines reported that reforms were expected in the foreseeable future in order to ensure compliance with the Code of Conduct.

24. Almost all countries reported that access to a qualified medical officer was always available every day, and that this practice was mandatory, at least with specified exceptions. Five countries reported that it was usually available. One country reported that it was exceptionally available. In the Philippines, persons in custody were provided with doctors or medical practitioners of their choice, and the Government, in cooperation with hospitals, usually extended assistance to such cases. Luxembourg, Mongolia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

25. Five sixths of the countries reported that ill or injured persons held in custody who required medical treatment were always transferred to specialized institutions or to civil hospitals. Others reported that this principle was applied usually; and one country reported that it was applied exceptionally. Almost all countries reported that this practice was mandatory, or mandatory with specified exceptions. Two countries reported that a transfer of injured persons in custody to specialized institutions was at the discretion of the supervisors of the law enforcement official. Australia noted that medical treatment of persons held in custody was provided by nursing facilities. Colombia, Malawi and Nepal reported that, when necessary, persons in custody could also be transferred to medical service stations. Japan noted that in adult correctional institutions, at least one doctor was on duty at any given time. The number of doctors available increased in accordance with the size of institutions and the type of work inmates were required to do. If it was difficult to give proper treatment in an ordinary detention centre, or if a special or a long-term treatment was required, a patient would be sent to special detention institutions where sufficient medical treatment was available. Otherwise, adequate medical care was secured by hospital treatment. The United Kingdom noted that a custody officer was obliged to call a qualified medical practitioner immediately when a person in custody was suffering from physical or mental illness or injury, or if medical assistance was otherwise necessary. If required, a detainee was immediately conveyed to hospital. Mongolia reported that because of lack of financial resources for the detention and prison system, difficulties were faced in ensuring adequate medical services for detainees. Luxembourg, Mongolia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

26. Almost all countries reported that law enforcement officials always had to obtain and comply with the advice of qualified medical personnel, in particular when the provision of medical treatment was recommended. Liechtenstein, Mongolia and the Republic of Korea reported that this principle was usually applied. In almost all countries the practice was mandatory. Three countries reported that it was mandatory with specified exceptions. Jamaica reported that there were guidelines to deal with recommendations made by medical officers. The implementation of these guidelines was closely monitored by the Government. Disciplinary action against those officers was initiated who did not comply with these guidelines. Mongolia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

V. ACTION AGAINST CORRUPTION

27. Article 7 of the Code of Conduct stipulates that law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

28. Almost all countries reported that law enforcement officials were never entitled to engage in any industrial, commercial or professional activities which were related to, or might be influenced by, their functions or duties. Some countries indicated that this principle was usually applied. Malawi reported that it was applied exceptionally. Almost all countries reported that the practice was mandatory. In four countries it was mandatory with specified exceptions. The Republic of Korea reported that it was mandatory in certain specified cases. Australia reported that a decision whether a law enforcement official was entitled to engage

in any industrial, commercial or professional activity was at the discretion of the supervisors of the law enforcement official. Chile, Colombia, Czech Republic, Finland, Iran (Islamic Republic of), Saudi Arabia and San Marino noted that law enforcement officials were not allowed to accept any gift from third parties, and Finland added that to offer a gift was regarded as a bribery or attempted bribery. Nepalese police regulations determined that law enforcement officials were strictly prohibited from accepting any grants or gifts (without prior approval) and from placing themselves under any kind of pecuniary obligation. If any official was found guilty of an act of corruption, he or she might be punished under the anti-corruption act of 1961. The Islamic Republic of Iran and Saudi Arabia reported that accepting any kind of gift was considered as a crime of extortion or "Rashawah". Mongolia reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

29. In 30 countries, law enforcement officials had the duty to report any gift from third parties if the value of the gift exceeded a certain amount of money. In 25 countries, such a reporting obligation existed if the gift was immaterial but could be bought. In 34 countries, officials had to report on a gift if a third party had promised any kind of privileges. In 35 countries, such reporting was obligatory, whether or not the gift was for the official concerned or for others. In five countries, officers had to report on the gift if it was for themselves or their relatives. In two countries, officers had to report on gifts if they were for themselves but not for their relatives or others. Argentina reported that officials were not obliged to communicate the receipt of gifts. Trinidad and Tobago reported that there were regulations which listed the conditions under which a police officer might accept a present. These were cases in which an official received a gift from a representative of a foreign Government on the occasion of an official visit to the country concerned, if he or she received a gift from a community organization on a social occasion where the gift represented the work or an achievement of that organization; or if he or she received a gift from other officers in the service on the occasion of his or her marriage, retirement, transfer or other celebratory occasion, if the present was approved by the Commissioner. Mongolia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

30. Almost all countries reported that law enforcement officials were prohibited from placing themselves under a pecuniary obligation of any kind to any person or entity in a manner which might affect their ability to perform their function and their duties, and that this prohibition was reinforced by the command, management and administrative system of the agency in which they served. One country reported that this principle was applied to a certain extent. Two countries reported that it was applied in some specific situations or that it was never applied.

31. Almost all countries reported that law enforcement officials were prohibited from being influenced by their own private interests when exercising their official function or duties, and that this prohibition was reinforced by the command, management and administrative system of the agency in which they serve.

32. Fifty-three countries reported that an independent investigating procedure existed to examine allegations of corruption against law enforcement officials. Three countries reported that such procedures existed to a certain extent. Another three Governments reported that they existed only for some specific situations. Six countries reported that such procedures did not exist at all. One country noted that there were codes of military procedure for such cases.

33. About half of the countries reported that law enforcement officials who had committed an act of corruption were subject to the following sanctions which could be imposed by internal disciplinary mechanisms of a law enforcement agency: fine (in 29 countries); censure (in 27 countries); reduction of rank (in 34 countries); reduction in remuneration (in 25 countries); transfer from law enforcement agency (in 22 countries); suspension (in 36 countries); termination of employment (in 59 countries); and some other system of punishment (in 23 countries). Three countries noted that imprisonment could also be imposed on an officer as a punishment. One country reported that besides prison, an officer could be definitively dismissed from the armed forces.

34. In 40 countries, law enforcement officials who were suspected of having committed an act of corruption might temporarily be suspended from office with continued payment. In 34 countries, officers suspected of an act of corruption were suspended from office without continued payment. In 17 countries, they could also be transferred to another law enforcement agency or, in 28 countries, assigned to other responsibilities within the same law enforcement agency. Four countries noted that their salary could be reduced by 50 per cent. The Islamic Republic of Iran reported that officials could be subject to disciplinary sanctions before being addressed to competent courts.

35. Almost all countries reported that law enforcement officials who were found guilty of an act of corruption might always be punished under criminal law. Australia, Costa Rica, Jamaica and Mongolia reported that this principle was usually applied. Almost all countries reported that the practice was mandatory. In two countries, the practice is mandatory with specified exceptions, and in one country, it is mandatory in certain specified cases. Three countries reported that it was at the discretion of the supervisors of the law enforcement official. Mongolia reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

36. Fifty-eight countries reported that other law enforcement officials had the duty to report any case of corruption or suspected case of corruption by law enforcement officials to the direct supervisor. There was an obligation to report to the superior at a higher grade than the direct supervisor in 22 countries. In 14 countries, officials had to report to a specialized agency. In 12 countries, officials had also to report to a specialized agency, but without reporting to any supervisor.

37. Forty-five countries reported that an investigative procedure or institution, independent of any agency in which such a law enforcement official might serve, had been established to investigate any act of corruption by law enforcement officials. Seven countries reported that such procedures existed to a certain extent. In Nepal, such procedures existed for some specific situations. Twelve countries reported that such procedures did not exist. Australia noted that in some of its states there were clearly independent investigative bodies. While some states in Australia established an exclusive internal body, others favoured bodies which dealt with disciplinary action and investigation of corruption. The United Republic of Tanzania reported that investigations could be carried out by an anti-corruption squad, which was a specialized institution, or by the criminal investigation department of the police. In New Zealand, the authority for police complaints, as an independent body, was obliged to investigate or oversee the investigation of corruption within the police. The Philippines reported that their national police had established comprehensive reforms which aimed at solving the problem of corruption. In particular, Philippine law enforcement officers who were suspected of an act of corruption were subject to preventive suspension and an initial trial under the summary dismissal hearing officer. In Spain, the internal affairs units investigated and prosecuted misconduct by officials. These units assisted the courts and the Public Prosecutor's Office. Mongolia reported that corruption existed among many public officials, including law enforcement officials. The Government identified inadequate legislation and lack of expertise in combating corruption as the primary areas for improvement.

38. Almost all countries reported that a formal and prescribed procedure had been established which had to be fully adhered to when a law enforcement official was subject to a disciplinary charge. Two countries reported that such procedures were followed to a certain extent, while in another two countries such procedures were not in place.

39. A number of countries reported that this formal and prescribed procedure set out the provisions on the process of investigation (in 60 countries); the rights and duties of the investigator (in 48 countries); the process of forwarding all information necessary (in 48 countries); the procedures for executing investigator's orders (in 43 countries); the procedure to supervise the investigation (in 44 countries); the supervision of the investigator (in 43 countries); and the rights of officials being investigated (in 49 countries).

VI. USE OF FORCE AND FIREARMS

40. According to article 3 of the Code of Conduct, law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. In order to gather information on the use and application of this provision, Member States provided information on testing and special training of law enforcement officers before they were allowed to use force or firearms, as well as on detailed provisions on the use of force and firearms by law enforcement officers in general, against persons in custody or detention or when policing unlawful assemblies. This section also reflects information received from Member States on reporting requirements and review procedures, once a law enforcement officer had to use force or firearms.

A. Testing and special training

41. In accordance with provision 19 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Governments and law enforcement agencies should ensure that all law enforcement officials are tested in accordance with appropriate proficiency standards in the use of force. This principle was respected in almost all countries either always (34 countries) or usually (13 countries). In four countries, such testing was conducted on an exceptional basis, while in three other countries the use of force by law enforcement officials was never tested. While the conduct of such tests was subject to the discretion of the law enforcement officials' supervisors in four countries, it was mandatory in 10 other countries. Argentina, Australia, Colombia, Luxembourg and Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

B. Use of force

42. In accordance with provision 19, those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use. Almost all countries reported that they complied with this principle on a mandatory basis. Three countries reported that this principle was applied usually; one country noted that it was applied exceptionally. In one country, it was never applied. Four countries reported that compliance with this principle was subject to the discretion of the supervisors of the law enforcement official. Australia further informed that national minimum guidelines for firearms training would be adopted soon, and that non-lethal weapons would be introduced. The philosophy of "minimum force necessary" and "use of firearms as last resort" was adopted and reinforced in training across Australia. The Marshall Islands and Vanuatu reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

C. Use of firearms

43. In accordance with provision 9, law enforcement officials should not use firearms against persons except in self-defence or defence of others against imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

44. Fifty-nine countries reported that law enforcement officials were never allowed to use firearms against persons, unless the use of these weapons was justified by self-defence, defence of others against the imminent threat of death or to prevent the perpetration of a particularly serious crime or to arrest. In three countries, this principle was applied usually. One country reported that it was applied exceptionally. Law enforcement officials in Ireland were not allowed to use firearms to arrest a person unless there was an immediate threat to life. Trinidad and Tobago reported that the use of firearms was not justified unless the person was armed. Even in this case, their law enforcement officers would make every effort to minimize injury and prevent

death. The Republic of Korea reported that when the police ordered armed rioters more than three times to abandon or surrender, and the rioters still refused to comply with the order, the police were allowed to use firearms in order to prevent the commission of a crime or to arrest the rioters, in particular, when it was recognized that there were reasonable grounds for the belief that the use of firearms was the only way to end the unlawful act. The use of ordinary force was reported to be very remote in Malawi. Firearms, however, were used to counter possible escalation of armed robberies, which were supported by illegal trafficking in weapons. Cyprus reported that any use of firearms to protect persons and property had to respect the principle of proportionality.

45. In 22 countries, firearms could be used against persons to prevent serious injury to others, if there was no grave threat to life. In 11 countries, this principle was usually applied. It was applied exceptionally in 23 countries, while in 10 other States it was never applied. The Philippines and the Republic of Korea reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

46. Eight countries reported that law enforcement officials were always allowed to use firearms against persons to protect State property. Another 12 countries noted that this principle was applied usually, while in 37 countries it was applied exceptionally. In 11 countries, the protection of State property was never supported by the use of firearms. In this connection, the Czech Republic noted that the use of firearms was only justified if a guard was attacked when protecting a building or when he was on duty in an area strategically important for the military. Switzerland reported that the use of firearms was permitted as the *ultima ratio* to prevent a serious and imminent criminal attack on public buildings, the destruction of which would constitute a significant loss for the community. However, in such cases, Switzerland focused on the protection of human lives in the public building, rather than on the protection of the building itself. Haiti and Mongolia reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

47. Six countries reported that firearms may always be used against persons to protect other interests of the State. Seven other countries reported that this principle was usually applied. In 31 countries, it was applied exceptionally, and in 19 countries, it was never applied. Haiti, Luxembourg and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct. Six countries reported that firearms may always be used against persons to protect the private property of individuals. Five countries reported that this principle was applied usually. In 31 countries it was applied exceptionally and in 22 countries it was never applied. Luxembourg, Mongolia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

48. In more than a third of responding countries, the intentional lethal use of firearms by law enforcement officials was prohibited; in 34 countries, however, the intentional lethal use of firearms was allowed, when strictly unavoidable in order to protect life; in 11 countries, intentional lethal use of firearms was also allowed, when other means were insufficient to secure law and order. The Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

Authorization to use firearms

49. In more than two thirds of responding countries, the use of firearms was allowed under circumstances prescribed by law, while in about one third of the countries, other legal directives allowed the use of firearms In about one sixth of the countries that allowed the use of firearms, an authorization or order by a superior law enforcement official was necessary, while in 13 countries, it was sufficient that the individual law enforcement official should consider the use of firearms necessary in a particular circumstance.

50. The United Kingdom reported that only those officers who received special training were issued firearms. Those officers were allowed to carry firearms only when they could reasonably anticipate that they would have to respond to an armed person. The authorization to use firearms was restricted to those

circumstances of absolute necessity, i.e. for protection or where the person was so dangerous that he could not safely be restrained without the use of firearms. The United Kingdom further explained that if an officer had to use firearms, he was personally responsible and required to justify his actions before the courts. The Marshall Islands reported that rules and regulations on the use of weapons were being drafted.

51. A number of countries reported that domestic laws or other regulations on the use of firearms by law enforcement officials included guidelines that specified the circumstances under which law enforcement officials were authorized to carry firearms, and prescribed the types of firearms and ammunition permitted. In some countries, guidelines ensured that firearms were used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm. In some countries, these regulations prohibited the use of firearms and ammunition that caused unwarranted injury or presented an unwarranted risk. They further regulated the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials were accountable for the firearms and ammunition issued to them.

Prior identification or warning

52. In accordance with provision 10, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons or would be clearly inappropriate or pointless in the circumstances of the incident.

53. Almost all countries reported that law enforcement officials, on a mandatory basis, were always requested to identify themselves as law enforcement officials before using firearms. Eleven countries reported that this principle was usually applied, and in one it was never applied. The Philippines noted that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct. Fifty-one States reported that before using firearms against persons, law enforcement officials were obliged to give a clear warning of their intent to use firearms. In eight States, this principle was usually applied; in two countries, clear warnings prior to the use of firearms had to be given in exceptional cases. The Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

54. In more than two thirds of the responding countries, law enforcement officials were always obliged, before using firearms against persons, to wait between the warning and the direct use of firearms against persons to give the offender sufficient time to observe the warning; about a quarter reported that this principle was applied usually; United Kingdom law enforcement officers, depending on their discretion in individual cases, had to wait between warning and the use of firearms only in exceptional cases or never. In Japan and South Africa, the observance of a waiting period was at the discretion of the supervisors of the law enforcement official.

D. Use of force and firearms against persons in custody or detention

55. As stipulated in provision 15, law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, for reasons of self-defence or when personal safety is threatened. A number of countries reported that they fully complied with this principle.

56. Compared to the use of force, principle 16 stipulates a more restricted use of firearms. In accordance with this provision, law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger of perpetrating a particularly serious crime involving grave threat to life. While many countries reported that they observed this principle, the replies suggested that a number of countries did not fully observe the strict preconditions for the use of firearms in custody or detention. In particular, 38 countries

allowed the use of firearms by officers to maintain security and order within institutions. In all countries which allowed the use of firearms against persons in custody or detention, law enforcement officials were authorized to use firearms under circumstances prescribed by law. In some countries, in addition to legal provisions, such circumstances were also prescribed by other legal directives. In 10 countries, the use of firearms in detention was lawful if ordered or authorized by a superior officer.

57. Japan reported that there were three justifications for prison officials to use firearms in addition to when there was a grave threat to life: (1) when inmates committed violence which could be dangerous to the body of another person; (2) when an inmate was trying to escape from prison, disregarding an order to stop; and (3) when many inmates were raising a disturbance with intent to escape. Japan further explained that handguns had not been used for more than 30 years, and tear-gas guns for more than 20 years. Israel and Ireland noted that firearms may be used only under certain circumstances, when the escapee posed a serious threat to the life of someone. Morocco reported that rather than using force or firearms, the prison service, in the event of rebellion or mutiny or a refusal by the prisoners to return to their dormitories, had always resorted successfully to dialogue.

E. Policing unlawful assemblies

58. In accordance with provision 4, law enforcement officials, in carrying out their duty, should, as far as possible, apply non-violent means before resorting to the use of force. They may use force only if other means remain ineffective or without any promise of achieving the intended result.

59. In 26 countries, law enforcement officials were allowed to use force to disperse assemblies that were unlawful but peaceful. In other countries, unlawful but non-violent assemblies should be dispersed without force, even if dispersal of the assembly was easier when resorting to forceful means. Of those countries which allowed the use of force to disperse assemblies, a majority restricted its use by law enforcement officers to the minimum extent necessary. In 18 countries, the use of force was only allowed if the dispersal of the assembly was less dangerous to individuals than the continuation of the assembly. The Islamic Republic of Iran noted that there were provisions and training courses for officials on how to disperse assemblies. Jamaica reported that the Code of Conduct and the Basic Principles were included in two manuals, which were distributed among all ranks of police, for general information and compliance. Nepal and Switzerland provided information on the procedure for dispersing assemblies, in compliance with the principle of proportionality and the graduated use of force.

60. In 51 countries, law enforcement officials might use firearms to disperse violent assemblies. Two countries reported that firearms might also be used to disperse assemblies that were unlawful but non-violent. In 12 countries, this principle was always applied; six States reported that it was applied usually; 32 reported that it was applied exceptionally; and 10 reported that it was never applied. Saudi Arabia and Singapore noted that officers might resort to firearms to disperse violent assemblies after the use of all lawful and peaceful measures to protect other lives proved to be insufficient in the specific circumstances. Vanuatu reported that other means, such as tear-gas and batons, were used before resorting to firearms. Luxembourg reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

F. Reporting

61. In accordance with provision 22, Governments and law enforcement agencies should establish effective reporting and review procedures for all incidents where force or firearms are used by law enforcement officials.

62. Almost all countries reported that law enforcement officials authorized to use force or firearms were required to report the incident to their superiors whenever force or firearms had been used on duty. Some reported that law enforcement officials were obliged to report on the use of force only if injury of any kind

to a person was caused. Peru and Mongolia reported that reporting was obligatory only when personal injury or death was caused. Nepal noted that if a law enforcement official used firearms, he or she was not only obliged to report thereon, but also to justify the use of firearms. The superior might then conduct an inquiry. Jamaica reported that law enforcement officials did not always report the use of firearms, especially when firearms were discharged in cases such as breaking up demonstrations. In comparison with senior officers, junior officers were less likely to report such activities when no one was injured, because they feared disciplinary measures and a long investigative process. In San Marino, no specific provisions for the use of firearms were in place. In the past, firearms had only been used to warn, but not to shoot at people. Switzerland stated that, in 1976, standard rules for the use of firearms were implemented by all police forces. The time-limit for reporting to the superior of the law enforcement official on the use of firearms was between 1 and 10 days in almost all countries.

63. Almost all countries reported that a law enforcement official was always held legally responsible for not having submitted an adequate report on the use of firearms to his or her superior. In two countries, this practice was usually applied. The United States explained that agents of the Federal Bureau of Investigation could be subject to internal disciplinary measures for failing to submit such a report, but that they were not legally liable for failing to do so. Finland and the United Republic of Tanzania reported that a law enforcement officer was held responsible for not having submitted an adequate report on the use of firearms to his or her supervisors.

G. Review procedures

64. In almost all countries, a law enforcement official was held legally responsible for the unlawful use of force and firearms. In two countries, this practice was applied to a certain extent, and one country reported that it was applied only exceptionally. Jamaica explained that even if a law enforcement official used force as a result of an order, he or she would be held accountable for his or her action, as the use of force was at the discretion of the individual officer in most instances. In Luxembourg, law enforcement officers had to face criminal or disciplinary sanctions if their hesitation to use force led to failure to assist a person in danger.

65. Almost all countries reported that superior officers were held legally responsible if they gave unlawful orders to use force and firearms. In two countries, this practice was applied to a certain extent. In the United Kingdom, responsibility for the use of firearms rested with an individual officer who was answerable to the courts, even if the use of firearms was ordered by a senior officer.

66. Almost all countries reported that superior officers were held responsible if they knew, or should have known, that law enforcement officials under their command were resorting to, or had resorted to, the unlawful use of force and firearms, and did not take all measures in their power to prevent, suppress or report such use. In two countries, this principle was applied to a certain extent. One country reported that it was applied in some specific situations, while another State noted that it was applied only exceptionally.

67. In most countries, in appropriate circumstances, independent administrative or prosecutorial authorities, on a mandatory basis, were in a position to exercise jurisdiction to deal with reported incidents. In some countries, this practice was applied usually; and four countries noted that it was applied exceptionally. Israel explained that a department of investigation of law enforcement officials for enquiries into suspected violations of regulations dealing with the use of force had recently been established. New Zealand stated that an independent police complaints authority existed which was in charge of all complaints against the police, including those involving use of force by the police whereby death or injury had occurred. In Vanuatu, complaints were received by the police service commission. Australia and the Philippines reported that reforms were expected in the foreseeable future to ensure compliance with the Code of Conduct.

68. Almost all countries reported that in cases where injury or death was caused by a law enforcement official who used force or firearms in the performance of his or her duty, independent administrative or

prosecutorial authorities always received detailed reports on the incident. In three countries, this practice was usually applied. Almost all countries reported that this practice was mandatory. In two countries, however, it was mandatory with specified exceptions. In one country, reports on the lethal use of force or firearms was mandatorily received by such authorities in certain specified cases.

69. Almost all countries reported that persons affected by the use of force or firearms and their legal representatives had access to an independent process, including a judicial process. In two countries, this practice was applied to a certain extent; and one country reported that it was applied in some specific situations.

70. In a number of countries, law enforcement officials, in compliance with the Code of Conduct and the Basic Principles, had to face criminal or disciplinary sanctions if he or she refused to carry out an order to use force or firearms. In other countries, however, law enforcement officials had not to face such sanctions. Cyprus, Philippines, Portugal, Spain and Switzerland reported that a law enforcement official could refuse the execution of an unlawful order. Niger reported that if the official felt that the order seemed excessive or unlawful, he could present reservations in writing or orally.

VII. QUALIFICATIONS, TRAINING AND COUNSELLING

A. Qualifications

71. Provision 18 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials stipulated that Governments and law enforcement agencies should ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions, and receive continuous and thorough professional training.

72. Almost all countries reported that their law enforcement officials were always selected by proper screening procedures, and that, except in 13 countries, this was mandatory practice. Six countries reported that selection of law enforcement officials by screening procedures was the usual practice. Two countries reported that in specified cases such procedures need not to be applied, while in another two countries, screening procedures were mandatory in certain specified cases. Again in two countries, it was at the discretion of supervisors to determine whether law enforcement officers were selected by proper screening procedures. Argentina explained that the application of proper screening procedures to select law enforcement officers was exceptional, and that because of the serious shortages of funds and insufficient remuneration, the number of applicants for work as law enforcement officials was decreasing. In turn, selection standards had to be gradually relaxed.

73. A number of States reported that screening procedures included competitive examination of applicants, individual interviews, security checking and other screening procedures. In almost all countries, screening procedures also focused on the moral, psychological and physical qualifications of applicants. Trinidad and Tobago reported that not all law enforcement agencies conducted psychological testing for all their officers, but that psychiatrists should be members of recruitment panels.

B. Training for law enforcement officials

74. Article 2 of the Code of Conduct stipulates that in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons. Accordingly, provision 20 of the Basic Principles stipulates that in the training of law enforcement officials special attention should be given to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the

understanding of crowd behaviour and the methods of persuasion, negotiation and mediation with a view to limiting the use of force and firearms.

75. Almost all countries reported that in the training of law enforcement officials, special attention was given to issues of police ethics, human rights, alternatives to the use of force and firearms, the peaceful settlement of conflicts, the understanding of crowd behaviour, and methods of persuasion, negotiation and mediation.

76. Provision 19 stipulates that Governments and law enforcement agencies should ensure that all law enforcement officials are provided with training. Almost all countries reported that all law enforcement officials received continuous and thorough professional training in order to ensure the effective exercise of their functions and lawful use of force and firearms. About half of the countries responding to the survey reported that the psychological impact of police actions was properly taken into consideration by law enforcement officials.

77. Thirty-one States reported that effective use of stress counselling was encouraged in situations where force and firearms were used, in accordance with provision 21. Austria reported that psychological assistance was offered to every law enforcement official after he had used firearms. The Philippines reported that the establishment of community-oriented policing systems was the underlying principle governing the pursuit of peace and order, as it was recognized that no efforts for preserving peace and maintaining order would ever be successful in the absence of community support.

78. A number of countries reported that continuous and thorough professional training was given, for all law enforcement officials, for at least 1 to 15 hours per year (six countries); for 16 to 30 hours (six countries); for 30 to 50 hours (14 countries); for 51 to 80 hours (seven countries); for 81 to 100 hours (four countries); and for more than 100 hours (21 countries).

79. In Australia, training varied monthly from 16 to 80 hours. In Colombia, there were 14 schools for the preparation, training and specialization of personnel in different categories for officers (inspectors) training which lasted for one to three years. Specializations in training were urban, rural and criminal police activities. French magistrates were trained at the National College of Magistrates before and during their careers. In Nepal, training courses after recruitment varied from 3 to 15 months. This initial training was usually followed by advanced professional training courses. The level of training depended upon responsibilities and the nature of the work of the law enforcement officials. Niger reported that senior officials received additional training in some western and African countries. United Kingdom officers received a minimum of 1,240 hours of training in the first two years of service; the amount of training provided for officials with more than two years of service varied according to the requirements of individual police forces. Officials specially trained in the use of firearms received at least 64 hours of firearms training per year. Trinidad and Tobago reported that because of financial constraints, not all law enforcement officials received continuous training. Special units of the police service, however, received continuous training for at least 51 to 80 hours per year. In the Philippines, in addition to in-service training, law enforcement officials were advised to take up advanced courses at the public safety college, the national defence college, the intelligence training group of the national police and post-graduate schools, as well as professional counselling services and religious formations. Tonga reported that technical assistance was required in training, especially in forensic science, drug control and measures against money-laundering. Vanuatu reported that because of political influence, limited resources and skill, it was difficult to provide training to the police in basic principles of law enforcement.

80. A number of countries reported that practical training was provided to all police forces in special areas of policing and police work. Member States were also requested to indicate whether specialized units existed in areas where special know-how in policing was required. Table 1 sets out the nature of training and the areas of policing in which specialized units were established. In addition, law enforcement officials received training in undercover techniques (31 countries); passenger examination (37 countries); cargo examination

(36 countries); detection equipment (339 countries); surveillance (46 countries); arrest techniques (58 countries); target practice (53 countries); collection of evidence (46 countries); dispersal of assemblies (52 countries); report-writing (61 countries); record-keeping (54 countries); interviewing and interrogation techniques (55 countries); and use of informants (30 countries).

Table 1. Nature of training provided in various areas of policing

Area of policing	*General training (number of countries)*	*Specialized training (number of countries)*
Organized crime	47	45
Drug-related crime	54	59
Money-laundering	33	39
Environmental crime	29	40
Anti-terrorism	39	49
Domestic violence	47	30
Urban crime	49	37
Juvenile delinquency	55	39
Child abuse	48	34

VIII. TECHNICAL ASSISTANCE

81. It is apparent that assistance provided to requesting countries on different aspects of the Code of Conduct and the Basic Principles would lead to a better use and application of those standards and norms. Many respondents indicated what forms of assistance would be helpful to their Governments and what forms of assistance, if any, could be provided by them to other countries. In most areas, Governments noted that they would be interested in more regular forms of exchange of experience. The next most frequent request was for assistance with training and research. Table 2 highlights the nature of requests for assistance in greater detail.

Table 2. Requests for assistance relating to the Code of Conduct and the Basic Principles

Form of assistance	*Number of countries requesting assistance*
Exchange of experience	38
Training	33
Research	27
Financial aid	27
Planning	26
Assistance in legal reform	21

82. Regarding the provision of technical assistance, the most frequently offered was the exchange of experience (25 countries); training (11 countries); research (10 countries); and legal reform (14 countries).

IX. CONCLUSIONS

83. The information received shows that the provisions of the Code of Conduct and the Basic Principles are considered to be of great importance, and that, in general, they are incorporated into, or covered by, national legislation and practice. There appear to be only a few countries still facing the challenge of improving their legislation and practice with respect to the conduct of law enforcement officers in some areas covered by the Code of Conduct and the Basic Principles, so as to ensure respect for both instruments, in all their aspects.

84. As regards the confidential treatment of information relating to the private lives of individuals (or which is potentially harmful to the interests and the reputation of others), almost all countries reported that law enforcement officials always exercised great care in safeguarding and using such information. A few countries, however, reported that such confidentiality could not always be guaranteed.

85. With respect to information relating to action against torture, most countries reported that they fully complied with the relevant international conventions and standards. A few countries noted, however, that torture or ill-treatment by law enforcement officials might be justified in specific situations or in certain circumstances. In particular, it appeared that investigation and interviewing techniques were not limited to acceptable international standards in some countries.

86. Medical services available to detainees, in general, appeared to be sufficient in most countries. The information gathered in some countries, however, revealed that training of law enforcement officials to recognize and react to symptoms of mental and physical ill-health or incapacity among detainees needed to be further encouraged. Also, proper methods of supervision to ensure compliance with those procedures should be promoted with a view to achieving the best practices. In that connection, States in which such good practices were generally performed might wish to share their experiences with others.

87. As regards action against corruption, investigative agencies in some countries had developed expertise in combating corruption by law enforcement officials, especially when that was connected with organized crime or linked with drug abuse and trafficking. The Commission might wish to consider the establishment of appropriate mecha.. ns to share such experiences.

88. A review of the information on the use of force and firearms suggested the following conclusions. While a majority of the responding countries complied with international standards, the use of force and firearms by law enforcement officials was such an important matter that divergencies from the standards were a matter of great concern for both Governments and the public at large. Such concerns targeted the following areas: the limited legal accountability for the use of force or firearms by law enforcement officials; the limited legal accountability of superior officers for any unlawful orders to use force or firearms that they might give; the limited responsibility of superior officers for the unlawful use of force or firearms by their subordinates; and the shortcomings in provisions for independent administrative or judicial supervision over the use of force and firearms. In addition, the responses from a majority of countries indicating that law enforcement officials who, in compliance with the Code of Conduct or the Basic Principles, refused to carry out an order could face criminal or disciplinary sanctions appeared also to be a challenge. For some countries, the main problem appeared to be the difficulty in reconciling the requirements for discipline and obedience to orders in a hierarchical structure such as the police, which in some countries can be part of the military forces, with the rule of law and the accountability of individuals for their acts or omissions before the law. This was an area where it was essential that good practice, as demonstrated in some contexts, should be shared with relevant agencies of other interested States.

89. Information gathered from Member States with regard to qualifications, training and counselling suggested that many Governments had established proper screening procedures for the selection of law enforcement officials, and that qualifications of selected aspirants were satisfying, depending on the future responsibilities of the individual officer. Some countries reported, however, that both selection by the

administration and qualifications of applicants needed further improvement. Also, because of inadequate remuneration in some countries, fewer and fewer young persons were interested in a career as law enforcement officers. Consequently, both selection requirements and qualifications had to be adjusted to the falling interest of applicants. As regards the provision of education and training for law enforcement officials, it appears that law enforcement officials generally receive at least the basic training which enables them to conduct their duties. In several countries, however, lack of sufficient training was a matter of great concern which created difficulties for Governments in attempting properly to apply the Code of Conduct and the Basic Principles. Inadequate funds to conduct such training and lack of qualified trainers were the reasons most frequently cited.

90. Additional guidance was provided in the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, adopted by the Council in its resolution 1989/61 of 24 May 1989. In section I, subsection A, the Guidelines, *inter alia*, encouraged States to ensure that the principles embodied in the Code of Conduct should be reflected in national legislation and practice, and that, in basic training and all subsequent training and refresher courses, law enforcement officials should be instructed in the provisions of national legislation connected with the Code of Conduct. In section I, subsection B, the Guidelines also outlined some specific issues with regard to the application of the Code of Conduct in the areas of selection, education and training, salary and working conditions, discipline and supervision and complaints by members of the public. In section II, subsection A, Guideline 1 states that the Code of Conduct should be made available to all law enforcement officials and competent authorities in their own language; Guideline 2 states that Governments should disseminate the Code of Conduct and all domestic laws giving effect to it so as to ensure that the principles and the rights contained therein become known to the public in general; and Guideline 3 states that Governments should organize symposia on the role and functions of law enforcement officials in the protection of human rights and the prevention of crime. To that end, in section II, subsection B, Guideline 6 states that the United Nations, as part of its advisory services and technical cooperation and development programmes, should make available to Governments, upon request, the services of experts and regional and interregional advisers to assist in implementing the provisions of the Code of Conduct, and should promote national and regional training seminars and other meetings on the Code of Conduct and on the role and functions of law enforcement officials.

Notes

[1] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.15/1996/16/Add.3
10 April 1996

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
Fifth session
Vienna, 21-31 May 1996
Item 7 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Addendum

USE AND APPLICATION OF THE DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

Summary

The present report has been prepared in response to Economic and Social Council resolution 1993/34, section III. It contains information included by States in their replies to a survey on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex). The results of the survey, which was conducted on the basis of recommendations made by the Commission on Crime Prevention and Criminal Justice, should provide a yardstick with which to assess the progress and needs of each State and thus direct the course of future action by the Commission.

*E/CN.15/1996/1.

V.96-82195T

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INTRODUCTION

1. The Economic and Social Council, in its resolution 1993/34, section III, requested the Secretary-General to commence a process of information-gathering to be undertaken by means of surveys, initially paying attention to, *inter alia*, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex), the results of which should be considered by the Commission on Crime Prevention and Criminal Justice.

2. In its resolution 1994/18, the Council reaffirmed the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice made to criminal justice systems and endorsed, *inter alia*, the questionnaire on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, submitted to the Commission at its third session.

3. The present report summarizes the replies to the questionnaire that were received from States. It follows the format used in the questionnaire, which was based on the structure of the Declaration. The questionnaire included the following parts that appear as headings in the Declaration: access to justice and fair treatment (paragraphs 4, 5 and 6 (a) (b) (c) and (d) of the Declaration); restitution (paragraphs 8-11); compensation (paragraphs 12-13); assistance to victims (paragraphs 14-16); and victims of abuse of power (paragraph 19). The questionnaire also included a part devoted to technical assistance.

4. Replies were received from 44 States: Argentina, Australia, Barbados, Belgium, Canada, Chile, China, Colombia, Cuba, Cyprus, Denmark, Finland, France, Germany, Ghana, Greece, Haiti, Holy See, Japan, Jordan, Lebanon, Luxembourg, Mauritius, Mexico, Morocco, Myanmar, Netherlands, New Zealand, Oman, Peru, Philippines, Qatar, Republic of Korea, Romania, Russian Federation, San Marino, Singapore, South Africa, Spain, Sweden, Switzerland,* Tonga, Ukraine and Vanuatu.

5. The replies received are from States in all regions. The interest in the survey manifested by the respondents is a valuable indicator of the growing awareness regarding the victims' issues all around the world.

6. In interpreting the results, it should be noted that among the States that did not reply were several known to have extensive legislation and programmes giving effect to the provisions of the Declaration. Many States might not have had data on conducted research and surveys to enable them to provide relevant information on the implementation of the Declaration. For example, Switzerland indicated that, since new legislation had been recently enacted, only a few reliable statistics were available. Some developing countries reported that they were facing a lack of financial and human resources to collect reliable statistics, develop surveys and promote research in that field.

7. The attention of the Commission is drawn to the results of the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting, held at Vienna from 18 to 22 December 1995 (E/CN.15/1996/16/Add.5). At the Meeting, 25 experts from all regions discussed ways to promote the use and application of the Declaration. The participants believed that wide-ranging measures, including the adoption of legislation, as necessary, needed to be taken at the national and international levels to improve access to justice and fair treatment, reparation, including restitution, compensation and satisfaction and physiological, medical and social assistance, to make a reality of the promise held out by the Declaration. The Meeting recommended to the Commission an Integrated Plan of Action on Victims of Crime and Abuse of Power, a Model Project on the Establishment of Victim Services in the Context of Sustainable Development, a Promising Practices Resource data bank, a Scheme for International Crisis Response Teams for Emergency Assistance, and Principles Guaranteeing the Rights and Interests of Victims in the Proceedings of the Proposed International Court. The Expert Group also prepared an outline of a draft manual on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and recommended that further work should be undertaken to finalize the draft manual.

8. The attention of the Commission on Crime Prevention and Criminal Justice is also drawn to Commission of Human Rights resolution 1995/34. In that resolution the Commission on Human Rights noted with interest the positive experience of countries that had established reparation policies for victims of grave violations of human rights. It considered that the question of restitution, compensation and rehabilitation of such

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*Submitted information on its legislation without using the questionnaire.

victims should be addressed in a more systematic and thorough way at the national and international levels. It reiterated its appreciation of the study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, prepared by the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, Theo van Boven (E/CN.4/Sub.2/1993/8). It called upon the international community to give increased attention to the right to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms.

I. ACCESS TO JUSTICE AND FAIR TREATMENT

9. In paragraph 4 of the Declaration, it is stated that victims should be treated with compassion and respect for their dignity and that they are entitled to access to the mechanisms of justice and to prompt redress for the harm that they have suffered.

A. Redress

10. On the question related to the possibility for the victim to obtain redress through formal or informal procedures, by judicial and administrative mechanisms, all responding States indicated that victims of crimes were able, in principle, to seek redress through formal or informal means. That practice was followed always or usually in 41 States and in exceptional cases in three States. The practice was mandatory in 38 States. In four other States it was mandatory in certain specified cases, while two States said that it was subject to the discretion of the Government, the executive or a political power. Seven States recognized that a discrepancy might exist between the Declaration and national rules and practices. In two States, namely Australia (Queensland) and Haiti, reforms were expected to be introduced in the future.

B. Duration of the procedures

11. The period necessary for a victim to obtain compensation or redress varied substantially among the responding States. Twenty-eight States indicated that redress occurred in less than one year; in 17 States the period was 1-6 months, while in 11 States it was 6-12 months. In 10 States, the average was 2-3 years. Two States, Ghana and Haiti, reported that redress for victims might take more than three years. Belgium noted that the process for seeking redress varied from 1 month to more than 36 months. Australia said that there were disparities in the laws and practices within its nine jurisdictions; in most of the jurisdictions the process lasted less than one year, while in Queensland, depending on the circumstances, the procedure took from 1 month to more than 36 months. Japan noted that it was impossible to give a uniform answer as redress included criminal, civil or administrative procedures and arbitration. Japan suggested that any future survey should also focus on those options.

C. Administrative and judicial costs

12. Most of the States indicated that the procedures that enabled victims to obtain redress ensured that they did not have to pay for the administrative or judicial procedures to obtain redress. Such procedures also guaranteed that victims were treated fairly and that they were involved in the criminal process initiated against the suspect. According to the replies received, the principle was always applied in 32 States, usually applied in 9 and applied on an exceptional basis in 1 State. It was mandatory practice for most of the responding States, and was applied in specified exceptions or in specified cases in a few States. In one State, it was subject to the discretion of the Court. Six States recognized that there were discrepancies between national legislation or practice and the provisions of the Declaration. In three States, namely, Argentina, Australia (Queensland) and Haiti, reforms were expected to be introduced in the future.

D. Information

13. According to paragraph 6 (a) of the Declaration, the responsiveness of judicial and administrative processes to the needs of victims should be facilitated by informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes were involved and where victims had requested such information.

14. Most of the States indicated that although procedures had been established to inform and provide information to victims but that they were not implemented or used in practice to a great extent. Twenty-seven States reported that the law guaranteed that victims were treated fairly, informed of their rights to seek redress and involved in the process to obtain redress.

15. More than one half of the respondents stated that victims were always, on a mandatory basis, informed of their rights in seeking redress. In 13 States, the principle was usually applied with some exceptions. In three States it was applied in exceptional cases, subject to the discretion of the judicial, executive or political power. Reforms were foreseen in four States. Information on the application of the principle was not available in four States.

16. Two thirds of the respondents reported that victims were informed of their possible role during a judicial or administrative process, especially where serious crimes were involved or when the victim requested such information. The practice was mandatory and generally applied in the majority of the States. It was applied in exceptional cases in two States. In six States there were specified exceptions. In three States the provision of proper information on the possible role of the victims in the proceedings was mandatory in certain specified cases. In five States the provision of such information was subject to the discretion of the Government, the executive or a political power. Six States noted discrepancies between national practice and the Declaration. In three States, namely, Australia (Queensland and Australian Capital Territory), Belgium and Oman, reforms were expected to be introduced. Information on the application of this principle was not available in six States. South Africa mentioned that the victim was informed by the presiding officer and the public prosecutor. In Germany, the Law for the Improvement of the Position of the Victim in Criminal Procedures (Victim Protection Act) allowed the victim to review the court files of the case and to receive legal counsel.

17. In two thirds of the responding States, victims were informed about the timing of the process, the schedule and the result of each judicial or administrative action, especially if serious crimes were involved or if the victim had requested such information. France reported that victims were informed of the timing when they had filed a complaint. In Germany the Victim Protection Act allowed the victim to receive information on the progress made in the case. Romania indicated that victims were informed in all cases. In a few States, the principle was applied in exceptional cases. It was mandatory in the majority of the States and mandatory in only certain specified cases in a few States. It was subject to the discretion of the governmental authorities in one States. In three States, namely, Australia (Queensland and Australian Capital Territory), Belgium and Oman, reforms were expected to be introduced.

18. Victims were always informed about the disposition of their cases in around two thirds of the responding States. That principle was usually applied in several States. In Australia victims were informed at their request or where a serious crime was involved. France reported that victims were informed of the result of the action when they had claimed their suffered damages in criminal proceedings. Belgium indicated that victims were informed about the disposal of their cases on an exceptional basis.

E. Victims' views and concerns

19. According to paragraph 6 (b) of the Declaration, judicial and administrative processes should allow the views and concerns of victims to be presented and considered at appropriate stages of the proceedings.

20. In 33 States, the judicial or administrative process always allowed the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests were affected. In seven other States the principle was usually applied. It was applied in exceptional cases in South Africa. In Belgium it was always applied in the first stage of the proceedings and in exceptional cases in the second stage.

21. More than 80 per cent of the responding States noted that the victims were able to present their concerns, either in person or through their legal counsel and the public prosecutors. Some States reported variations that might exist, depending on the circumstances and the seriousness of the case. For instance, the Netherlands mentioned that views and concerns of the victim were presented by the victim alone or the victim's legal counsel and the public prosecutor with due regard to the seriousness of the case. A few States reported that other persons might be allowed to present the concerns of the victim; such persons included officers of relevant agencies and the police in Australia, anyone connected with the case in Jordan and Myanmar, the victim's witnesses and relatives in Mauritius, and the guardian of minors in cases involving juveniles or the representative of social and professional associations in Haiti. In Canada, the Criminal Code permitted the court to consider, at the time of sentencing an offender, a "victim impact statement", describing the effects of the crime on the victim. Amendments to the Criminal Code were being considered by the Canadian parliament to ensure that, where a "victim impact statement" had been prepared, the court must consider it.

F. Protection of privacy

22. Sixty per cent of the responding States reported that measures were taken in order to always or usually protect the privacy of victims, as well as of their families and witnesses on their behalf, from intimidation and retaliation. In the majority of those States the practice was mandatory. It was followed in exceptional cases in a dozen States. One State reported that the practice was never followed. In six States, information on the implementation of the practice was not available. In Australia (Australian Capital Territory), following the introduction of television in courtrooms, the Evidence Act was amended to allow victims of crimes to testify by closed-circuit television located outside the courtroom. In Argentina, Australia (Queensland), Belgium, Haiti and Oman reforms were expected to be introduced.

G. Safety

23. More than one half of the responding States indicated that the judicial or administrative process endeavoured to ensure the safety of victims, as well as that of their families and witnesses, and to protect them from intimidation or retaliation. In those States, the practice generally was mandatory. It was exceptional in three States and never followed in three others. In Argentina, Australia (Queensland), Haiti and the Russian Federation reforms were expected to be introduced.

II. RESTITUTION

A. Fair restitution by the offenders

24. According to paragraph 8 of the Declaration, offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

25. All responding States indicated that offenders were bound by law to provide fair restitution to victims, their families or dependants in accordance with paragraph 8 of the Declaration. The practice was mandatory and generally followed in the majority of the States. Argentina further explained that the obligation to

provide restitution might only arise out of a judgement and that the filing of a civil suit by the victim was an essential prerequisite. Once the judgement was rendered, and unless the offender ordered to effect compensation was insolvent, the victim could obtain the redress sought, by the sale of the offender's property if necessary. France reported that victims of a criminal offence were always entitled to claim damages from the perpetrators of the offence in the full amount of the pecuniary and non-pecuniary harm suffered; they might also obtain compensation from the Security Fund (Fonds de Garantie), which was then entitled to proceed against the offenders. Restitution was exceptional in only two States, where it was left to the discretion of the judicial authorities. In a few States, the practice allowed some exceptions; for example, in Australia (Australian Capital Territory) financial reparation was not ordered if the offender was sentenced to imprisonment or was unable to pay.

26. For almost all the States, restitution included: the return of property (in 38 States); payment for harm or loss suffered (in 38 States); and the reimbursement of expenses incurred as a result of victimization (in 34 States). Sixteen States indicated that restitution also included the provision of services.

B. Restitution as a sentencing option in criminal cases

27. In two thirds of the responding States, restitution was an available sentencing option in criminal cases, in addition to other criminal sanctions, in accordance with paragraph 9 of the Declaration. In one half of the reporting States the practice was considered mandatory. In a few States, however, restitution was not used as a criminal sentence. Argentina reported that the option was available provided that a civil suit had been instituted within the criminal proceedings. A bill before the Argentine congress concerning non-custodial alternative penalties included as a penalty (which implied the possibility of imposition on a discretionary basis) the provision of restitution for the harm inflicted. Eight States noted discrepancies between the Declaration and domestic laws but did not expect reforms to be introduced in the future.

C. Restitution in cases of substantial harm to the environment

28. Under paragraph 10 of the Declaration, in cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of the community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

29. In a few States criminal codes had been amended to permit restitution for environmental damages. However, more than one half of the respondents (26 States) indicated that, in a case involving substantial harm to the environment, restitution could be ordered within a judicial or administrative process. In addition, 10 States reported that restitution might be ordered to a certain extent or in some specific situations. Five States indicated that the possibility did not exist or existed in exceptional cases.

30. Paragraph 10 of the Declaration was always or usually applied in 32 States. In 23 States the practice was mandatory. In a few States, it was mandatory with specified exceptions or mandatory in certain specified cases. In five States, the issue was subject to the discretion of the administrative or judicial authorities. Australia reported that restitution could be ordered after judgement (in Victoria) or under environmental acts that imposed penalties for breaches of environmental laws and regulations (in Western Australia). France reported that under criminal law, judges might order the offender to comply with statutory or regulatory provisions related to the environment. Argentina, Australia, Haiti, Myanmar and Oman indicated that they expected reforms to be introduced.

D. Restitution from the State

31. According to paragraph 11 of the Declaration, the victims should receive restitution from the State in cases where public officials have violated national criminal laws.

32. In all but four of the responding States that principle was respected. Fourteen respondents noted that victims received restitution from the State where the victimization was due to the fact that public officers had violated criminal laws. Fifteen respondents specified that restitution was due if the public officials acted in the course of their duty. Seven States replied that the provision was applied to a certain extent or in some specified situations.

33. Fourteen States indicated that victims also received restitution in situations where agents other than public officials, acting in an official or quasi-official capacity, had violated national criminal laws. Seventeen States noted that restitution was ordered if the agents acted in the course of their duty.

34. Less than 50 per cent of the respondents indicated that restitution was paid by the State whose officials or agents were responsible for the harm inflicted. Twenty-one States reported that the payment was made in all cases. In a dozen States, restitution was paid in some cases. Argentina reported that restitution was paid provided that the relevant civil suit had been filed; in some cases, solely as an exception, the State recognized its responsibility for certain acts and granted redress, on a discretionary basis, to persons who could provide proof of victimization. The Netherlands reported that the compensation of (im)material damage was mainly regulated by civil procedures; however, since April 1995, many claims of victims had been allowed to be treated under criminal law procedures. Three States noted that restitution was not paid in any such cases. In a dozen other States, no information on the subject was available.

III. COMPENSATION

35. According to paragraph 12 of the Declaration, when compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to victims who have sustained significant bodily injury and to the family, in particular dependants of persons who have died or become physically or mentally incapacitated.

A. Compensation from the State

36. About one half of responding States either did not reply to this part of the questionnaire or indicated that there was no information available on the subject. More than one third reported that the State provided financial compensation to victims who did not get compensation from the offender. Japan noted that there were several systems under which the State provided financial compensation. Argentina indicated that there was no compensation for victims of crimes if the State was not responsible, even indirectly, for their perpetration; it added that the level of economic development achieved made it difficult, if not impossible, to include such claims among the entitlement granted to victims of crime. Singapore and South Africa reported that the State did not provide any financial compensation to victims of crime.

B. Modalities

37. A dozen respondents indicated that compensation was provided irrespective of a final decision by a criminal court on the crime. In seven States, compensation was subject to a final decision by a criminal court on the crime.

38. In Cuba, Denmark, Finland, France, Mexico, Jordan, Romania and Sweden, the State's financial compensation was 100 per cent of the redress the victim could claim from the offender. In Australia and Canada it varied according to local legislation. In Australia (Northern Territory), France and Luxembourg, compensation was provided by the State in cases where the victim would be unable to work 30 days (10 days in the case of Australia (Northern Territory)) or in cases where the victim's physical or mental capability was reduced by 10 per cent. France reported that compensation paid to victims of serious bodily harm (temporary

unfitness for work for over one month), to those permanently unfit for work and to rape victims was not subject to a ceiling; it was determined by the Victims' Compensation Commission.

39. About one half of respondents indicated that the State might seek reimbursement from the offender for any expenses incurred through the provision of compensation to the victim.

40. More than one third of the respondents indicated that, when compensation was not fully available from the offender or other sources, the State provided financial compensation to the family.

C. State funds for compensation

41. Eighteen States, namely, Australia, Belgium, Canada, Cuba, Finland, France, Jordan, Luxembourg, Mexico, Netherlands, Oman, Peru, Philippines, Qatar, Republic of Korea, Romania, Spain and Sweden, reported that State funds for compensation to victims had been established, as recommended in paragraph 13 of the Declaration. In seven States, State funds were established for specific situations. Canada and Jordan noted that, because of a lack of funding, the aid provided was still unsatisfactory. Canada stated that most provinces had victim legislation that provided for the imposition of a victim surcharge for provincial offences, the revenue from which was used to fund victim programmes and services in the provinces. Many respondents provided additional information and copies of domestic legislation. In Australia (Queensland), Greece, Jordan and Haiti reforms were expected to be introduced.

IV. ASSISTANCE FOR THE VICTIMS

A. Assistance throughout the legal process

42. According to paragraph 6 (c) of the Declaration, the responsiveness of judicial and administrative processes to the needs of victims should be facilitated by providing proper assistance to victims throughout the legal process.

43. In almost all States proper assistance was provided to the victims always or usually in order to enable them to present their concerns throughout the legal process. Six States reported that assistance was exceptional, rarely provided by the governmental authorities, subject to specific conditions such as the introduction of legal proceedings, or limited to the first stage of the process. France stated that victims might receive from the State financial support for legal counsel, depending on the victim's monthly income. Victims in France might also obtain advice from a network of 150 victims' aid associations. The use of victims' aid associations as a mechanism for delivering services and providing assistance to victims was also reported by Australia, Belgium, Canada, China, Ghana, Luxembourg, New Zealand, Republic of Korea, Sweden and Vanuatu.

B. Other forms of assistance and victim services

44. According to paragraphs 14-17 of the Declaration: (a) victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means; (b) victims should be informed of the availability of health and social services and other relevant assistance; (c) attention should be given to victims who have special needs; and (d) police, justice, health, social service and other personnel should receive training to ensure proper and prompt aid.

45. In almost all responding States, victims received the necessary material assistance (in 23 States), medical assistance (in 33 States), psychological assistance (in 21 States) and social assistance (in 33 States). In more than two thirds of the States, such assistance was provided through governmental, voluntary and community-based means. In 12 States, it was also available through indigenous means.

46. Thirty-two States reported that health and social services were always available to victims. The practice was mandatory in the majority of the States. For instance, Australia noted that all victims of crime had access to emergency hospital treatment. France indicated that public and private health services were available to all sick persons even if they were not victims of a criminal offence. Victims' aid associations might act as intermediaries between the health services and victims for psychological or psychiatric treatment. A few States indicated that social services were provided, taking into account the needs and means of the victim.

47. Victims were generally informed of the availability of health, social services and other relevant assistance. In many States, the information was provided by the police, the administration and health and social services, or justice officials such as the office of public prosecutions. Some States also referred to community-based and victim support agencies, as well as to the media, private aid associations, crime victim relief funds and local offices for victim assistance.

48. Some respondents provided additional information. For example, Australia described the functions of the Victims of Crime Coordinator, established under the Victims of Crime Act of 1994, as aimed at encouraging the provision of efficient and effective services for victims, maintaining a register of seniors available to victims and ensuring, as far as practicable, that victims received the information and assistance that they needed in connection with their involvement in the administration of justice. France reported that the Ministry of Justice had encouraged the development of a network of 150 victims' aid associations operating at the courts or in difficult neighbourhoods. Within the Ministry of Justice, the Office for the Protection of Victims was responsible for distributing directives on the provision of assistance to victims.

49. Two thirds of the respondents reported that training was provided in order to sensitize police, justice, health and social services to the needs of victims. Some States referred to agencies that received special training in relation to offences against women. One third of the respondents noted that guidelines had been drafted and made available to the institutions involved in training.

V. VICTIMS OF ABUSE OF POWER

50. According to paragraph 19 of the Declaration, States should consider incorporating into the national law norms proscribing abuses of power and providing remedies, such as restitution, compensation, assistance and support, to victims of such abuses.

51. Almost all States indicated that remedies were provided for victims of abuse of power either by national law (in 32 States) or in general practice (in 6 States). Two thirds of the respondents reported that remedies were provided in all cases. While a few noted that information on the subject was not available, the practice was mandatory in the vast majority of the States that replied. Four States indicated that there were specified exceptions. In two States, the practice was subject to the discretion of the Government, the executive or a political power.

52. Two thirds of the respondents reported that remedies for victims of abuse of power included restitution and/or compensation. Necessary material and medical assistance and support were provided to such victims in almost all the States. Psychological assistance and support were provided in more than one third of the States. And social assistance and support were provided in more than one half of the States.

53. In Australia (Queensland), Oman and South Africa reforms were expected to be introduced in this area. South Africa noted that positive changes had occurred after the abolishment of apartheid.

54. Regarding compensation, Argentina indicated that, on an exceptional basis, the State recognized its responsibility for certain acts, such as the unlawful repression that had occurred in the country in the late 1970s, and granted redress, on a discretionary basis, to persons who could provide proof of victimization.

55. Chile submitted information on the work undertaken in the country since 1990 in respect of victims of abuse of power. Activities of the Commission for Truth and Reconciliation were presented, as well as those of the National Reparation and Reconciliation Board, created in 1992 to establish proof of crimes perpetrated and to grant compensation for victims, in particular children, spouses and parents of those who had disappeared. Compensation included compensation for emotional harm that had been inflicted. The forms of compensation included a compensatory pension payable for life, a single-sum compensatory allowance equivalent to 22 months' pension, and free health care and several benefits for children.

56. Haiti had established the Truth Commission to probe the crimes committed in that country from 1991 to 1994. A Committee of Lawyers had been designated to provide free legal assistance to the victims of crimes committed during the military coup. The question of establishing a permanent committee to assist victims was under discussion.

57. Turkey noted that, within the national law, victims of the crime of abuse of power were in a position to obtain redress from the public authorities. It submitted information on its national provisions, namely the Constitution and law 466, on compensation for persons arrested and detained illegally.

VI. TECHNICAL COOPERATION

58. Many States expressed interest in receiving technical assistance in terms of, *inter alia*, promulgation of national legislation, training, planning, exchange of experience, research and financial aid. Requests for assistance submitted by States can be summarized as follows:

Form of assistance requested	*Number of States*
Exchange of experience	25
Research	20
Financial aid	19
Training	18
Planning	15
Promulgation of national legislation	14

59. The responding developing countries and countries with economies in transition mainly expressed interest in financial aid, training and exchange of experience. Financial aid was requested as a matter of priority by Argentina, Colombia, Haiti, Jordan, Morocco, Myanmar, Philippines, Romania, Russian Federation, South Africa, Tonga and Vanuatu. Training was identified as a priority by Argentina, Colombia, Cyprus, Lebanon, Mauritius, Myanmar, Romania, South Africa and Tonga. Exchange of experience was seen as a priority by Argentina, Colombia, Cyprus, Ghana, Haiti, Lebanon, Myanmar and Romania. Considerable interest in research was expressed by Colombia, Ghana, Jordan, Philippines, Romania and South Africa. Promulgation of national legislation was requested as a matter of priority by Cyprus, Haiti, Mauritius and Tonga. Assistance in planning was requested as a priority by Ghana, Philippines, South Africa and Vanuatu.

60. Several developed countries, namely, Australia, Canada, France, Greece and the Netherlands, expressed interest in the exchange of experience, training and research. Canada also mentioned promulgation of national legislation.

61. Offers by States to provide assistance could be categorized as follows:

Form of assistance offered	*Number of States*
Exchange of experience	20
Training	13
Promulgation of national legislation	11
Research	9
Planning	7
Financial aid	6

62. Exchange of experience was mentioned by developed and developing countries. Training and/or promulgation of national legislation was proposed by Australia, Colombia, Cuba, Cyprus, France, Greece, Jordan, Lebanon, Myanmar, Netherlands, Oman, Philippines, South Africa, Spain, Sweden and Vanuatu. Planning was proposed by Australia, Colombia, Greece, Jordan, Oman, Philippines and South Africa. Financial aid was envisaged by six States.

VII. CONCLUSION

63. According to the replies received, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power appears to enjoy respect in most States. Many of the 44 responding States reported that steps had been taken to implement the main provisions of the Declaration. Initiatives to incorporate the Declaration into domestic law were reported by several States. New legislation benefiting victims had been introduced in many countries or was under consideration. For some States, the Declaration had served as a guideline for broader reforms that were under way.

64. The positive developments and legislative reforms were part of the overall movement towards recognizing the rights of victims, addressing their needs, offering assistance and providing restitution and compensation, including in cases related to abuse of power and in the field of the environment.

65. The information received suggests that differences in the judicial traditions, systems and practices of the responding States did not prevent an increased number of countries from including in their domestic legislation, substantial and procedural provisions designed to improve the position of victims in civil, criminal and administrative proceedings.

66. In some jurisdictions, victims were able to express their views and concerns to the court. In a certain number of States, victims were permitted to take an active role in the proceedings and were afforded the right to review court files, to receive information on the progress of the case and to have legal counsel. In some jurisdictions, special victim support persons, victim advocates or coordinators had been designated to help victims and witnesses during the process.

67. Furthermore, steps had been taken in many jurisdictions to facilitate the victim's access to relevant information. In many States, the police had the duty to inform the victim of the possibilities of legal advice,

of sources of practical assistance, and of ways to seek redress, with a view to obtaining restitution or compensation. In some States, other administrative services, victim support persons and non-governmental organizations were entitled to inform victims of their rights or specific issues.

68. While concern for victims was central in most criminal justice systems, less than one half of the reporting States had developed programmes or established funds to be used by the victims or by those working in the criminal justice systems to support the victims.

69. Nevertheless, the replies received demonstrated that the amount of attention given to the plight of victims has increased. In a number of States the services for victims have been expanded. Some States have established central bodies at the national level to develop a comprehensive approach and coordinate the activities of an increased number of associations involved in action to support victims.

70. A number of States referred to revised laws and new programmes to provide services for victims. Some States reported that they expected changes to be introduced in the near future to implement the provisions of the Declaration.

71. Almost all the respondents emphasized the importance of technical cooperation and expressed a great interest in research and other promotional and operational activities to be developed. Several States emphasized that it was difficult to submit reliable information and statistics on issues related to the use and application of the Declaration. Others noted discrepancies between national practices and some of the provisions of the Declaration.

VIII. ACTION REQUIRED OF THE COMMISSION

72. The Commission may wish to consider ways in which the United Nations crime prevention and criminal justice programme could continue to promote research and could assist, upon request, Member States in improving their national capacities to ensure justice for victims of crime and abuse of power, by providing technical assistance in the form of, *inter alia*, advisory services, training and assistance in the review or promulgation of national legislation.

73. Several States sent examples of legislation and programmes to illustrate their efforts to implement the Declaration. The Commission may wish to request the Secretary-General to consider means of promoting the exchange of experience in this field between interested Member States and of disseminating the information provided.

74. The attention of the Commission is drawn to the relevant proposals contained in the report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1996/16) and to those made by the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting, held at Vienna in December 1995 (E/CN.15/1996/16/Add.5), for appropriate review and follow-up action.